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**U.S. Citizenship
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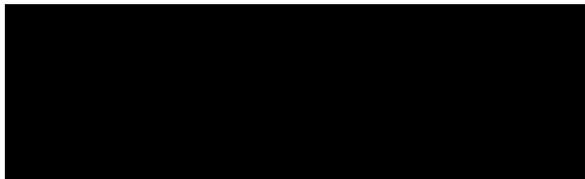
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **JUL 30 2007**
[WAC 05 210 88409]

IN RE: Applicant: [REDACTED]

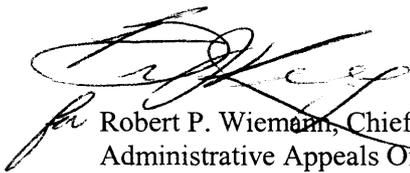
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wieman, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that the applicant filed a TPS application during the initial registration period on April 16, 2001, under receipt number WAC 01 185 50130. Again, the applicant filed a second TPS application also during the initial registration period on January 9, 2002, under receipt number LIN 02 082 52218. The Director, Nebraska Service Center (NSC) denied that second application on August 27, 2002, because the applicant, in response to a request for evidence dated February 5, 2002, had failed to provide clear and conclusive evidence of her qualifying continuous residence and continuous physical presence in the United States during the requisite period. The NSC director also noted that the applicant had failed to appear for fingerprinting as required. The applicant appealed the director's decision to the AAO on September 18, 2002. During the pendency of the appeal, the NSC director denied the initial TPS application [receipt number WAC 01 185 50130] on June 30, 2003, because the applicant, in response to the Notice of Intent to Deny (NOID) dated May 16, 2003, had failed to submit sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. Although the applicant was advised that she could appeal the NSC director's decision by filing a completed Form I-290B, Notice of Appeal to the Administrative Appeals Office, within 30 days of the director's decision, the record does not contain evidence that the applicant filed a Form I-290B.

As to the applicant's appeal regarding the second application [receipt number LIN 02 082 52218], the AAO reviewed the record of proceeding and noted that the NSC director erred in his conclusion that the applicant had failed to appear for fingerprinting as the record shows that the applicant did appear for her appointment on July 5, 2002. The AAO, however, noted discrepancies and apparent alterations on evidence furnished by the applicant and concluded that the applicant had failed to satisfy the residence and physical presence requirements described in 8 C.F.R. § 244.2(b) and (c); therefore, the AAO affirmed the NSC director's decision and dismissed the appeal on September 13, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 28, 2005 [under Citizenship and Immigration Services (CIS) receipt number WAC 05 210 88409], and indicated that she was re-registering for TPS.

The CSC director denied the re-registration application on October 3, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, counsel asserts that the applicant has a pending appeal as per the Notice of Action under receipt LIN 02 288 53732. He submits a copy of the Notice of Action and additional evidence in an attempt to establish the applicant's qualifying continuous residence and continuous physical presence in the United States.

Despite counsel's assertion on appeal, the record indicates that there is no appeal that is pending for the applications addressed above [WAC 01 185 50130; LIN 02 082 52218; and WAC 05 210 88409]. Receipt number LIN 02 288 53732 was assigned to the Form I-290B (Notice of Appeal) received on September 18, 2002, appealing the NSC director's decision dated August 27, 2002, denying the TPS application under receipt number LIN 02 082 52218 received on January 9, 2002. As previously detailed above, that appeal was dismissed by the AAO on September 13, 2004.

It is noted that the applicant filed a Form I-821, Application for Temporary Protected Status, on September 7, 2006, under CIS receipt number EAC 06 342 71971, and indicated that this is her "first application to register for Temporary Protected Status (TPS)." The Director, Vermont Service Center, denied that application on April 5, 2007, because the applicant had failed to establish that she was eligible to file under the late initial registration provisions as set forth in 8 C.F.R. § 244.2(f)(2). The applicant filed an appeal from the denial decision. That appeal will be addressed in a separate decision.

The applicant is filing the current TPS application as a re-registration [WAC 05 210 88409]; therefore, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, she is not eligible to re-register for TPS. Consequently, the CSC director's decision to deny the application will be affirmed.

The record contains a Warrant of Removal/Deportation, Form I-205, issued in Omaha, Nebraska, on August 3, 2005, based on the final order of removal by an immigration judge on June 28, 2005.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.