

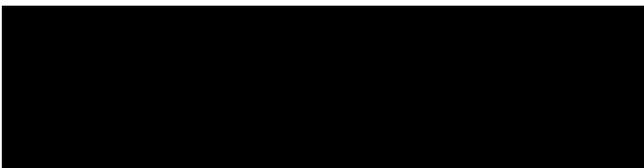


U.S. Citizenship
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FILE: [REDACTED]
[WAC 05 151 71894]

Office: California Service Center

Date: JUL 31 2007

IN RE: Applicant:



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

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

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


for Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant claims to be a citizen of El Salvador who is applying for 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 late initial TPS application on September 10, 2002, under CIS receipt number SRC 03 015 54815. The Director, Texas Service Center, denied that application due to abandonment, on July 29, 2003, because the applicant failed to respond to an April 17, 2003 notice of intent to deny, to submit evidence to establish his eligibility for late initial registration, his continuous residence and his continuous physical presence in the United States. A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 28, 2005, under CIS receipt number WAC 05 151 71894, and indicated that he was re-registering for TPS. The director denied that application on January 17, 2006, 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, the applicant states that he came to the United States in 2000 with his mother, when he was 13 years of age. With his appeal, the applicant submits photocopies of 4 Employment Authorization Documents for his mother, [REDACTED], a TPS registrant; the biographic page of his El Salvador passport; and, his El Salvador birth certificate, with an English translation.

The record of proceedings reflects that the applicant's parent [REDACTED] is a TPS registrant. Therefore, the applicant has established that he has met one of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). However, while an applicant who is the child of a TPS recipient may be eligible for late initial registration, the applicant must meet all of the requirements for TPS.

If the applicant is filing an application as a re-registration, 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, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that although the applicant indicated that he entered the United States on August 25, 2000, a review of the record reveals that on the applicant's mother's TPS application, filed on September 20, 2002, she indicated that the applicant was in El Salvador; and, on her TPS application, filed on August 9, 2005, she did not list the applicant as her child. This casts doubt on whether the applicant was in the United States in 2000 as he claimed. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile

such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the entry dates in the record, and his supporting documentation. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish his continuous residence and continuous physical presence requirements in the United States described in 8 C.F.R. §§ 244.2(b) and (c) during the requisite period. Therefore, the application will also be denied for these reasons.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.