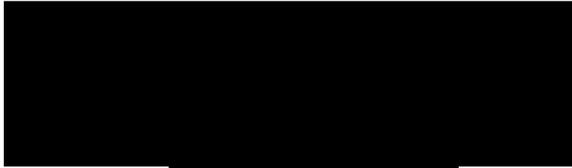


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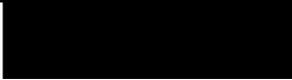
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Services

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FILE:



OFFICE: California Service Center

DATE:

JUN 04 2007

[WAC 05 126 72421]

IN RE:

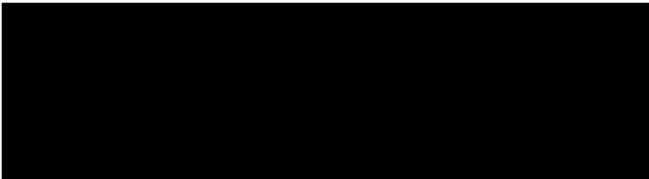
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a 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 shows that the applicant filed an initial Form I-821, Application for Temporary Protected Status, in August 2001 [WAC 01 277 56023]. That application was denied on July 8, 2004, by the District Director in San Diego, California, on the ground that the applicant was ineligible for TPS under section 244A(c)(2)(B)(ii) of the Act, which excludes individuals who have “ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.” The applicant filed an appeal, which was dismissed by the AAO on August 26, 2005. The applicant then filed a motion to reconsider, which has likewise been dismissed by the AAO.

The applicant filed the current Form I-821 on January 21, 2005, which he identified as an application for re-registration of TPS. On January 5, 2006, the Director, CSC, denied the re-registration application on the ground that the applicant’s initial TPS application had been denied for failure to establish prima facie eligibility, making him ineligible to re-register for TPS under section 244 of the Act.

On appeal counsel asserts that the director erred in denying the re-registration application based on the denial of the initial application because (1) with a motion to reconsider pending before the AAO, no final decision has been issued on the initial TPS application, and (2) the approval of a re-registration application is not dependent on the approval of a prior TPS application. The AAO does not agree with counsel’s positions.

In a companion decision the AAO has dismissed the applicant’s motion to reconsider the denial of the initial TPS application. Thus, the denial of that application is final. Furthermore, no re-registration application can be approved unless the applicant has previously been approved for TPS, since only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. *See* 8 C.F.R. § 244.17. In this case, the applicant has not previously been granted TPS because he never met the conditions of eligibility, having been found by the San Diego District Office and the AAO, based on the findings of an Immigration Judge in the applicant’s removal proceedings, to be ineligible for TPS under section 244A(c)(2)(B)(ii) of the Act. Ineligibility under section 244A(c)(2)(B)(ii) of the Act is an absolute disqualifier for TPS, regardless of the type of application (initial, late initial, or re-registration) under consideration. Accordingly, the director’s denial of the re-registration application will be affirmed.

An alien applying for Temporary Protected Status, or TPS, 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.