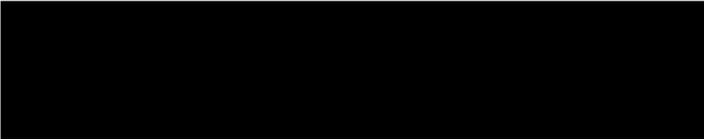




U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUN 18 2007

[WAC 05 126 71491]

IN RE:

Applicant:

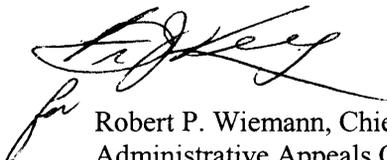


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 office that originally decided your case. 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 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.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under § 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

The record reveals that the applicant filed a TPS application during the initial registration period on April 27, 2001, under receipt number WAC 01 198 54010. The applicant also filed a TPS application on September 5, 2002, under receipt number WAC 02 286 51314, and indicated that he was re-registering for TPS. Within the same denial notice, the director denied the initial application and the re-registration application on February 24,

2004, after determining that the applicant had abandoned his applications based on his failure to appear for fingerprinting on June 19, 2002. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 3, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on January 9, 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 requests reconsideration because he feels that his life would be placed in danger if he is returned to El Salvador.

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

The record indicates that the applicant subsequently was fingerprinted on March 8, 2005, and June 14, 2006. The Federal Bureau of Investigation (FBI) fingerprint results reports, the DHS database, and the Washington State Patrol Identification and Criminal History report reveal the following:

1. On April 22, 1999, in Fort Pierce, Florida, the applicant (name used: [REDACTED]) was arrested for Count 1, "resisting officer-obstruct without violence," and Count 2, "disorderly conduct." The final court disposition of this arrest is not contained in the record.
2. On March 27, 2005, in Chelan County, Washington, the applicant was arrested for driving under the influence. The Washington Criminal History report indicates that the applicant was subsequently convicted of this offense (under Case No. [REDACTED]); however, the actual final disposition from the Court is not contained in the record.
3. On June 22, 2005, in Fresno, California, the applicant (name used: [REDACTED]) was arrested for Count 1, possession of a controlled substance; Count 2, possession of controlled substance paraphernalia; and Count 3, obstruct public officer. The final court disposition of this arrest is not contained in the record.
4. On August 19, 2005, in Fresno, California, the applicant (name used: [REDACTED]) was arrested for Count 1, possession of a controlled substance; and Count 2, possession of controlled substance paraphernalia. The final court disposition of this arrest is not contained in the record.
5. On September 7, 2005, in Fresno, California, the applicant (name used: [REDACTED]) was arrested for Count 1, under the influence of a controlled substance; and Count 2, possession of controlled substance paraphernalia. The final court disposition of this arrest is not contained in the record.

6. On December 1, 2005, in Fresno, California, the applicant (name used: [REDACTED]) was arrested for Count 1, "POS/MFG/SELL DANG WPN/ETC;" Count 2, possession of a controlled substance; Count 3, possession of a controlled substance; and Count 4, possession of a controlled substance. The DHS database indicates that the applicant was subsequently convicted of "possess/manufacture/sell dangerous weapon/etc., and receive known stolen property; however, the actual final disposition from the Court is not contained in the record.
7. On April 9, 2006, in Wenatchee, Washington, the applicant (name used: [REDACTED]) was arrested for Count 1, driving under the influence; Count 2, driving with license suspended or revoked; and Count 3, ignition interlock violation. The Washington Criminal History report indicates that the applicant was subsequently convicted of all three counts (under Case No. [REDACTED]) however, the actual final disposition from the Court is not contained in the record.
8. On April 20, 2006, in Wenatchee, Washington, the applicant (name used: [REDACTED]) was arrested for Count 1, obstruct law enforcement officer; Count 2, driving under the influence; Count 3, Driving with license suspended or revoked; and Count 4 ignition interlocks violation. The final court disposition of this arrest is not contained in the record.

An alien shall not be eligible for temporary protected status if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Additionally, convictions of possession of a controlled substance and possession of drug paraphernalia may render the applicant inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(II) of the Act. However, the actual final dispositions from the respective courts, listed in Nos. 1 through 8 above, are not contained in the record. CIS must address these arrests and/or convictions in any future decisions or proceedings.

It is also noted that documents contained in the record of proceeding are insufficient to establish that the applicant has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Therefore, the application also must be denied for this reason.

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.