



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: California Service Center

Date: JUN 27 2007

[WAC 05 224 77500]

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:

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.

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

Robert P. Wiemann, Director
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 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 an initial TPS application on April 30, 2001, under CIS receipt number SRC 01 191 61581. The Director, Texas Service Center, denied that application for abandonment, on February 24, 2003, because the applicant failed to respond to a January 8, 2003 notice of intent to deny requesting that he submit evidence to establish 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 director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 2005, under CIS receipt number WAC 05 224 77500, and indicated that he was re-registering for TPS. The director denied the re-registration application on September 19, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

On appeal the applicant states that he did not know what to do in 2003 because of a language barrier, and he is resending the evidence. With the appeal, in an attempt to establish his eligibility for TPS, the applicant submits photocopies of:

1. An Employment Authorization Card which expired on September 9, 2003;
2. A Social Security card;
3. A State of North Carolina Driver License, issued on February 10, 2003;
4. An unclear North Carolina Uniform Citation, dated August 10, 1999;
5. A Service Merchandise customer receipt, dated September 20, 1998;
6. A State of North Carolina, Division of Motor Vehicles Notice, dated September 1, 1999;
7. A collection letter, dated January 12, 2000;
8. Two birth certificates for his children, who were born in the United States on August 26, 2000, and on November 5, 2002, respectively;
9. A Household Automotive Finance credit denial letter, dated February 28, 2003;
10. An INS mailer, dated July 24, 2001;
11. A partially completed job application, dated January 14, 2003;
12. 2 INS application receipts, dated June 6, 2001;
13. One page of a completed Form 1040, U.S Individual Income Tax Return for the year 2001;
14. 2 paystubs from Wrights Drywall Company, Inc., dated April 19, 2002, and May 17, 2001, respectively;
and,
15. A 2001 Form W-2, Wage and Tax Statement.

However, 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.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish his continuous residence in the United States from February 13, 2001 and his continuous physical presence since March 9, 2001. Therefore, the application will also be denied for these reasons.

It is noted that the record of proceedings reveals that the applicant's asylum application was referred to the immigration judge on May 6, 1998, was placed in removal proceedings, and on July 9, 1998, an Immigration Judge granted the applicant voluntary departure in lieu of Removal on/or before November 7, 1998, with an alternate Order of Removal, if the applicant failed to depart the United States as required.

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.