



U.S. Citizenship
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Services

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FILE:



Office: California Service Center

Date:

MAR 01 2007

[WAC 05 212 75505]

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.

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 (AAO) on appeal. The appeal will be dismissed.

The applicant is stated to be 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 reveals that the applicant filed an initial TPS application on April 30, 2001, under CIS receipt number SRC 01 197 56200. The director denied that application, on September 29, 2004, because the applicant failed to submit a photo identification, within 30 days, as requested in a June 14, 2003 notice of intent to deny. It is noted that the notice of intent to deny was mailed to the applicant's last known address, and was not returned as undeliverable. The director, therefore, considered the TPS application abandoned. 8 C.F.R. § 103.2(b)(13). 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 a subsequent Form I-821, Application for Temporary Protected Status, on April 30, 2005, under CIS receipt number WAC 05 212 75505, and indicated that he was re-registering for TPS. The director, California Service Center, denied the application on December 15, 2005, as 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 reasserts the applicant's eligibility for TPS, and states that USCIS erred in denying the TPS application. With the appeal, in an attempt to establish the applicant's eligibility for TPS, counsel submits photocopies of:

1. An El Salvador birth certificate in Spanish, with an English translation;
2. A Western Union money transfer receipt, dated September 3, 1999;
3. A patient appointment slip from Health Ambulatory Patient Management System, dated February 1, 2001;
4. Two Service Fee statements from the Houston Department of Health, dated February 2001;
5. A Gigante Express envelope addressed to the applicant in Houston, Texas, date stamped February 26, 200; and
6. A Gigante Express mail receipt, dated March 14, 2001, showing the applicant as the consignor.

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, it is noted that although the record of proceedings contains an El Salvador birth certificate and English translation, the certificate was not accompanied by a photo

identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). Therefore, the application will also be denied for these reasons.

It is noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant was: 1) arrested by the Ft. Lauderdale Police Department, Florida, on August 30, 2004, and charged with Failure to Appear – Out of Court Hold – Misd (Statute/Ordinance – FL843.15(1B)); and 2) arrested by the Collier County Sheriff's Office, Florida, on September 2, 2004, and charged with Failure to Appear – FTA non Comp Hear (Statute/Ordinance – FL843.15(1B)). The AAO notes that the final court dispositions are not in the record of proceeding. CIS must address these arrests and/or any convictions in any future proceedings.

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.