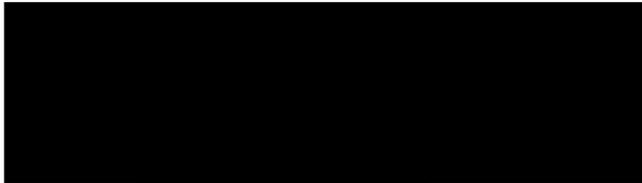


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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **MAR 26 2007**
[WAC 05 161 82311]

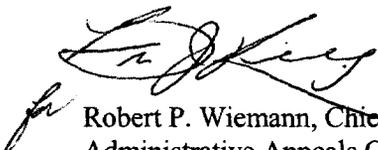
IN RE: Applicant: [REDACTED]

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.


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.

The record reveals that the applicant filed a TPS application during the initial registration period on August 2, 2002, under Citizenship and Immigration Services (CIS) receipt number WAC 02 250 52425. The director denied that application based on abandonment on May 18, 2004, because the applicant had failed to respond to a request dated November 24, 2003, to submit evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. 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 March 10, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on August 16, 2005, 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 asserts that the director's denial is in error because he previously had been granted TPS, that he is a natural-born El Salvadoran, he had continuously resided in the United States since before February 13, 2001, and had registered and continuously re-registered for TPS; therefore, he has clearly satisfied the *prima facie* eligibility.

The applicant's assertions are without merit. Although the record indicates that the applicant was issued an Employment Authorization Card (EAD) on November 21, 2003, the issuance of the EAD is not evidence that he was approved TPS. Based upon filing of the I-821 application for TPS, the applicant was afforded temporary treatment benefits and was issued Employment Authorization upon establishing *prima facie* eligibility¹ for TPS pursuant to 8 C.F.R. § 244.5(b). As provided in 8 C.F.R. § 244.13(a), temporary treatment benefits terminate upon a final determination with respect to the alien's eligibility for TPS.

It is also noted that the applicant was issued an EAD on July 21, 2001, when he was added as a dependent on his mother's Form I-589, Request for Asylum in the United States [REDACTED]. The record, however, indicates that [REDACTED] withdrew her application for asylum on July 30, 2002, when her NACARA application was approved (Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal, pursuant to section 203 of Public Law 105-100).

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.

¹ Pursuant to 8 C.F.R. § 244.1, *prima facie* means eligibility established with the filing of a completed application for TPS containing factual information that if un rebutted will establish a claim of eligibility under section 244 of the Act.

Beyond the decision of the director, it is noted that although the record of proceeding contains an El Salvadoran birth certificate and English translation, the certificate was not accompanied by 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 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.