

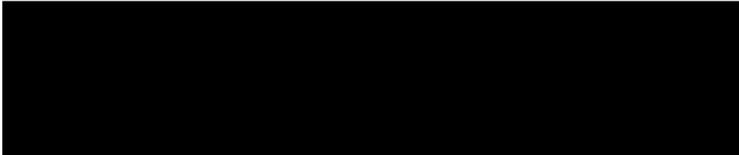


U.S. Citizenship
and Immigration
Services

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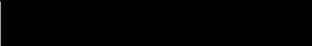
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

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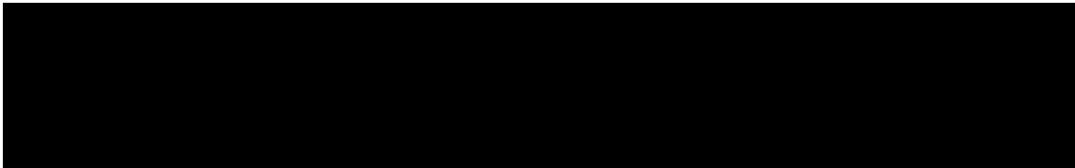
IN RE:

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 (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims 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 a TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number LIN 02 281 53349. The Director, Nebraska Service Center (NSC), denied that application on July 1, 2003, because the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. On July 30, 2003, the applicant filed an appeal of the decision to deny his TPS application. The AAO dismissed the appeal on September 1, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 6, 2005, and indicated that he was re-registering for TPS.

The CSC director denied the re-registration application on August 29, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant filed his current appeal from that decision on October 3, 2005.

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.

The director however, failed to consider that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration as the applicant indicated in his TPS application. On appeal, counsel asserts that the applicant is eligible for late registration under TPS for El Salvadorans because he is the child of an alien currently eligible to be a TPS registrant.

However, the record reveals that the applicant was born on October 16, 1979. A "child" is defined under the Act as an unmarried son or daughter who is under twenty-one years old. Therefore, the applicant is ineligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2) because he was twenty-five years old when he filed his application on May 6, 2005.

An alien applying for 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.