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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 113 72080]

Office: CALIFORNIA SERVICE CENTER

Date: MAY 07 2007

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 California Service Center. 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 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 01 268 55611 during the initial registration period. The Director, Texas Service Center, denied that application on May 19, 2004, after determining that the applicant had been convicted of a carrying a prohibited weapon in a tavern, a felony. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821 on January 14, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If an alien is filing a re-registration application, 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.

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.

An alien shall not be eligible for temporary protected status under this section 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. *See* Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

The record reveals the following offenses:

1. On December 1, 1988, the applicant was arrested for unlawfully carrying a weapon in a tavern, a felony, by the Sheriff's Office in Dallas, Texas. On April 11, 1989, the applicant was convicted of that charge under case number [REDACTED] by a Judge of the 283rd District Court of Dallas County, Texas, who sentenced him to a term of eight years in jail.
2. The applicant's Federal Bureau of Investigation (FBI) fingerprint results report shows that on March 23, 1989, he was arrested by the Sheriff's Office in Dallas, Texas, for the unauthorized use of a motor vehicle.
3. The FBI fingerprint results report shows that on October 24, 1989, he was arrested by the Sheriff's Office in Dallas, Texas, for aggravated sexual assault.

The applicant is ineligible for TPS due to his felony conviction listed as Item #1 above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Additionally, the final court dispositions of his arrests for the unauthorized use of a motor vehicle and aggravated sexual assault listed as Items #2 and #3 above, and any others he may have incurred have not been provided for the record by the applicant.

The record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated August 17, 2001 indicating that the United States Border Patrol apprehended the applicant near Laredo, Texas, after he illegally entered the United States by crossing the Rio Grande River on that day. The applicant is required to meet the continuous residence and continuous physical presence requirements as provided in 8 C.F.R. §§ 244.2(b) and (c). None of the evidence presented by the applicant establishes his continuous residence since February 13, 2001 and his continuous physical presence from March 9, 2001, to August 17, 2001, the date he entered the United States. Therefore, he cannot satisfy the continuous residence and continuous physical requirements described in 8 C.F.R. §§ 244.2(b) and (c). Furthermore, the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a) and § 244.9(a)(1).

The record contains a Form I-205, Warrant of Deportation, verifying that the applicant was removed from the United States on October 23, 1991.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited 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.