



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

Handwritten initials, possibly "MM", in black ink.



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: MAY 25 2007

[WAC 05 189 70060]

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: SELF-REPRESENTED

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.

Handwritten signature of Robert P. Wiemann in black ink.
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 applicant filed an initial application for TPS under receipt number SRC 03 011 54600. The director denied the initial application on November 1, 2004, after determining that the applicant had abandoned his application by failing to respond to a Notice of Intent to Deny regarding a lack of evidence concerning his continuous physical presence in the United States during the requisite period.

The applicant filed the current application on April 7, 2005, and indicated that he was re-registering for TPS.¹

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.

It is noted that the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. He has provided a copy of a birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore, the appeal is dismissed for this additional reason.

Additionally, the record reflects that on January 26, 2000, the applicant was encountered at the Richardson City Jail in Texas where he was being held for assault. When he was interviewed by a Special Agent of the Dallas District Office of the Immigration and Naturalization Service [now, Citizenship and Immigration Services (CIS)], he claimed to be a native and citizen of Honduras under the name [REDACTED]. This claim contradicts his current claim to being a native and citizen of El Salvador. In removal proceedings held on March 21, 2000, an Immigration Judge in Dallas, Texas, ordered the applicant (under the name [REDACTED]) deported "in absentia" to Honduras. It is further noted that the record contains an outstanding Form I-205, Warrant of Removal/Deportation for the applicant's removal to Honduras, (also under the name [REDACTED]), issued by the District Director of the Dallas, Texas, office. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

¹ The applicant filed additional applications on November 12, 2002, and August 28, 2003.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. The applicant has provided a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). As indicated above, the applicant was first known to us as [REDACTED] and claimed to be a native and citizen of Honduras. Now the applicant is proceeding under the name [REDACTED] and claims to be a native and citizen of El Salvador. Absent primary documents such as a passport and/or national identity documentation, the applicant's true nationality and citizenship status cannot be resolved. The application is also denied because the applicant has not established his El Salvadorian nationality.

The applicant's Federal Bureau of Investigation fingerprint results report shows that on January 22, 2000, he was arrested by the Police Department in Richardson, Texas, and charged with "ASSLT CAUSES BODILY INJ" under the name [REDACTED]. However, the final court disposition of this arrest is not included in the record of proceeding. Therefore, the appeal is dismissed for this additional reason. Any further proceeding before CIS must also address the final court disposition of this arrest.

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 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.