

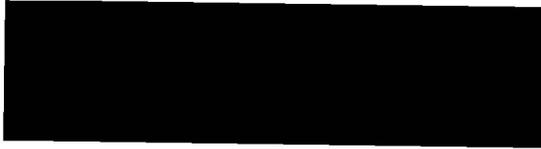
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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE:



Office: California Service Center

Date: **MAY 29 2007**

[WAC 05 222 71939]

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 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 is a citizen of El Salvador who is applying for 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 September 25, 2001 under CIS receipt number SRC 01 278 54991. The director, Texas Service Center, denied that application on March 29, 2003, because the applicant failed to respond within 30 days to a January 17, 2003 notice of intent to deny. The director had requested that the applicant provide evidence to establish his continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, and submit evidence of his nationality, and a photo ID. The director, therefore, considered that 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 the current Form I-821, Application for Temporary Protected Status, on May 10, 2005, under CIS receipt number WAC 05 222 71939, and indicated that he was re-registering for TPS. The director, California Service Center, denied that application on September 8, 2005, as the applicant's initial TPS application had been denied and the applicant was not eligible to apply for TPS.

With his initial TPS application, the applicant submitted photocopies of: -

- A birth certificate, in Spanish, with an English translation;
- Two notarized letters from individuals stating that the applicant has been in the United States since May 20, 1999;
- A Western Union money transfer receipt, dated January 21, 2001; and,
- A pay stub, issued on May 11, 2000.

On appeal, the applicant reasserts his eligibility for TPS. With his appeal, in an attempt to establish his continuous residence in the United States and his continuous physical presence, the applicant submits photocopies of:

- CIS Denial Notice of his Application for Employment Authorization, dated May 12, 2005;
- Two Employment Authorization Cards that expired on September 9, 2003, and on September 9, 2002, respectively;
- Three CIS receipt notices, one unclear, and two dated May 12, 2005, December 20, 2002, respectively;
- A Texas Department of Public Safety Commercial Driver License;
- A Social Security card;
- A Provisional Passport issued by the Consulado General De El Salvador;
- An English translation of his El Salvador birth certificate; and,
- A Form I-821, an I-765, and denial notice dated, March 29, 2003.

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.

It is noted that the applicant's Federal Bureau of Investigation (FBI) results report, completed in connection with his subsequent TPS re-registration application, reflects that the applicant was arrested on February 9, 2002, by the Police Department Dallas, Texas, and charged with Theft \geq \$50 < \$500; and arrested on July 11, 2005, by the Police Department Houston, Texas, and charged with evading arrest or detention. The final court dispositions are not in the record of proceeding. CIS must address these arrests, and any convictions, in any future proceedings.

It is also noted that the record reveals that the applicant was placed in Removal Proceedings (under A73 758 881), and ordered deported to El Salvador, on November 1, 1995, by the Immigration Judge.

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.