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FILE:



Office: California Service Center

Date:

MAY 29 2007

[WAC 05 131 81025]

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, 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 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 an initial TPS application on July 20, 2001, under CIS receipt number SRC 01 249 55222. The Texas Service Center director denied the application, on February 18, 2004, because the applicant failed to appear for fingerprinting on January 30, 2003. It is noted that the record reveals that the fingerprint notification was mailed to the applicant's last known address and was not returned as undeliverable. 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 February 8, 2005, under CIS receipt number WAC 05 131 81025, and indicated that she was re-registering for TPS.

The director denied that application on August 02, 2006, 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, counsel asserts the applicant's eligibility for TPS, and states that the applicant has been living in the United States since 2000, but she only has affidavits from people who have known her from at least January 2001. With the appeal, in an attempt to establish the applicant's continuous residence in the United States and her continuous physical presence, counsel submits photocopies of various documents, including tax returns, earning statements, invoices, receipts, correspondence, and reference letters.

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.

It is noted that while counsel states that he was informed by the applicant that she arrived in the United States in the year 2000, the applicant stated on both of her TPS applications that she arrived in the United States on January 10, 2001.

In this case, the applicant has not previously been granted TPS. Therefore, she is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is also noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report, completed in connection with her re-registration application, reflects that the applicant was arrested by the Police Department, Houston, Texas, on September 9, 2002, and charged with THEFT >=\$50<500. The AAO notes that the final court dispositions are not in the record of proceeding. CIS must address this arrest in any future proceedings.

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.