



U.S. Citizenship  
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Services

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FILE: [REDACTED]  
[EAC 05 162 76129]

Office: VERMONT SERVICE CENTER

Date: **NOV 06 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, Vermont Service Center (VSC). The case is now before the Administrative Appeals Office (AAO) 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 applicant filed an initial Form I-821, Application for Temporary Protected Status on June 2, 2001, during the initial registration period (EAC 01 205 54424 relates). On July 15, 2004, the director requested the applicant to submit evidence to establish his qualifying continuous residence in the United States since February 13, 2001, and his continuous physical presence since March 9, 2001. The record reflects that the request was returned to the VSC as undeliverable. Therefore, on August 26, 2004, the director determined that the application had been abandoned and all action on the application was terminated.

The director subsequently reopened the proceeding and, on September 28, 2005, again requested the applicant to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director also requested the applicant to submit the final court disposition of his arrest in Rockville, Maryland, on April 25, 2005, for Assault - Second Degree. The record reflects that the applicant failed to timely respond to the director's request. Therefore, on January 25, 2006, the director denied the application on the grounds that the applicant had failed to submit the final court disposition of his arrest, and had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant filed the current Form I-821 on February 10, 2006, and indicated that he was re-registering for TPS. The director denied the re-registration application, also on January 25, 2006, 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 submitted his current appeal from that decision on February 21, 2006.

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 for re-registration will be affirmed.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

It is noted that when filing his appeal on February 21, 2006, the applicant provided sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant also provided documentation indicating that he was convicted of Assault – 2<sup>nd</sup> degree, a felony, on June 2, 2005, in Montgomery County, Maryland. Therefore, the applicant is ineligible for TPS due

to his record of at least one felony conviction. 8 C.F.R. § 244.4(a). Therefore, the application must also be denied for this reason.

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 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.