

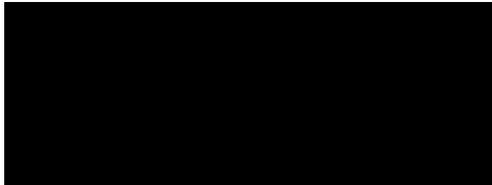
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FILE

[EAC 05 106 71749]  
[EAC 01 227 58997 relates]

Office: CALIFORNIA SERVICE CENTER

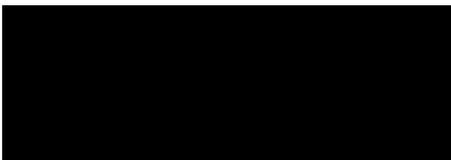
Date: NOV 09 2007

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 Vermont 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 (CSC), and 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 record reveals that the applicant filed a first TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number EAC 01 227 58997. The Director, Vermont Service Center (VSC), denied that application on April 2, 2003, because the applicant failed to establish that he had continuously resided in the United States since February 13, 2001. Counsel filed an appeal from the denial with the AAO on April 12, 2003. The AAO dismissed the appeal on May 24, 2004, and the director's decision to deny the application was affirmed. On October 4, 2004, counsel filed a motion to reopen the application. The VSC director dismissed the motion on January 20, 2005, because it was not filed timely and the delay was not found reasonable.

On February 3, 2005, counsel filed a motion to reconsider the dismissal of the motion to reopen. The VSC director forwarded the case to the Chief, AAO, who then remanded it to the director due to lack of jurisdiction since the director made the latest decision in the proceeding, and therefore had jurisdiction of the case. There is no indication in the record of proceedings that the director issued a decision on the second motion after the case was remanded by the AAO. That motion will be addressed in a separate decision.

The applicant filed the current Form I-821, on January 14, 2005, and indicated that he was re-registering for TPS. The Director, California Service Center (CSC) denied the re-registration application on October 23, 2006, because the applicant's initial TPS application had been denied on April 2, 2003, and the applicant was not eligible to apply for re-registration for TPS. The applicant filed his current appeal from that decision on November 9, 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 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).

An alien applying for TPS 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.