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U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

M,

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

NOV 26 2007

[WAC 05 116 71682]

IN RE:

Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration  
and Nationality Act (the 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.

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 (AAO) on appeal. The appeal will be dismissed.

The applicant is 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 record reveals that the applicant filed a TPS application during the initial registration period on May 7, 2001, under receipt number WAC 01 199 51648. The director denied that application on August 19, 2003, because the applicant had been convicted of a felony or two or more misdemeanors. On August 27, 2003, the applicant filed an appeal from the denial decision. The AAO reviewed the record of proceeding and determined that the applicant was ineligible for TPS based on his two misdemeanor convictions; namely: (1) making a terrorist threat, 422 PC; and (2) driving with .08 percent blood alcohol level or more, 23152(b) VC. The AAO further determined that, despite the applicant's claim that his convictions are pending because his probation had not been finalized, the applicant had been convicted within the meaning of section 101(a)(48)(A) of the Act, whether or not the applicant had fulfilled his terms of probation. The AAO, therefore, dismissed the appeal on February 8, 2005.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 24, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on June 30, 2005, 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, the applicant asserts that he submitted all the documents requested by CIS, and that he is *prima facie* eligible for TPS. He resubmits court documents relating to his two convictions.

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.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

Further, the provisions of TPS do not allow approval of any application filed by an individual convicted of a felony or two or more misdemeanors, as is the case in this instance. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The applicant was convicted of two misdemeanor offenses on August 3, 2002, and his convictions continue to preclude a favorable finding of eligibility for TPS.

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.