



U.S. Citizenship
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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: OCT 17 2007

[WAC 05 116 72816]

IN RE:

Applicant:



APPLICATION:

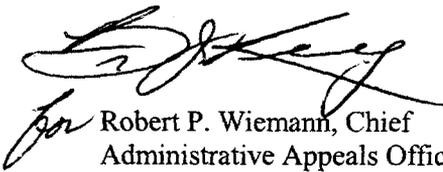
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 California Service Center. 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 (CSC), and is now before the Administrative Appeals Office 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 17, 2002, under receipt number LIN 02 197 52359. The Director, Nebraska Service Center (NSC), denied that application on January 23, 2003, because the applicant had failed to establish that she had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application. On February 24, 2003, the applicant filed an appeal from the denial decision. That appeal will be addressed in a separate decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 24, 2005, and indicated that she was re-registering for TPS. The CSC director denied the re-registration application on January 9, 2007, 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 requests that she be granted permission to work in the United States because she has to provide for her two children.

It is noted that during the pendency of Form I-290B, Notice of Appeal to the Administrative Appeals Office, filed on February 24, 2003, the applicant filed the re-registration application on January 24, 2005. The CSC director denied the re-registration application on January 9, 2007, and the applicant appealed this decision of the director on February 7, 2007. A remand of this case to the director based on a premature denial of the re-registration application would not overcome the denial of the applicant's initial TPS application, because the record as presently constituted contains insufficient evidence to establish that the applicant has met the criteria for continuous residence and continuous physical presence in the United States during the requisite period.

The applicant is filing the current TPS application as a re-registration; however, 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, she is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

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.