

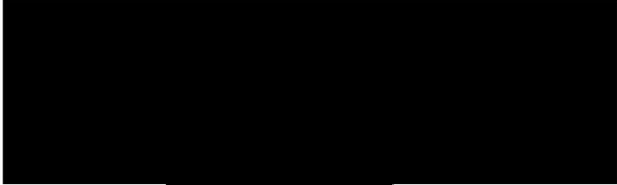
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

M I



FILE:



OFFICE: CALIFORNIA SERVICE CENTER

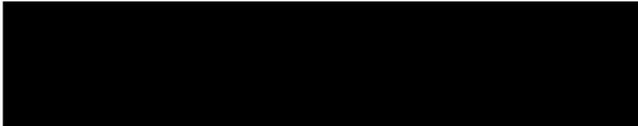
DATE:

OCT 17 2007

[WAC 05 224 86112]

IN RE:

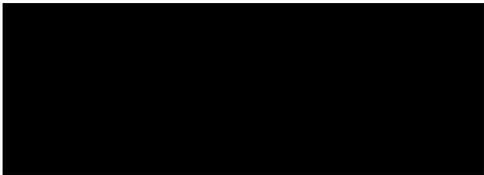
Applicant:



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 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 December 26, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 02 076 55083. The director denied that application on July 16, 2004, after determining that the applicant had abandoned her application based on her failure to appear for fingerprinting on February 3, 2004. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 2005, and indicated that she was re-registering for TPS. The director denied the re-registration application on August 16, 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, counsel asserts that the director erred in denying the applicant's Form I-821 because she had previously established a *prima facie* eligibility for TPS "by virtue of its previous approval of TPS status for the appellant."

The fact that the applicant was issued Employment Authorization Cards (EAD) is not evidence that she was approved TPS. Based upon filing of the I-821 application for TPS, the applicant was afforded temporary treatment benefits and was issued EADs upon establishing *prima facie* eligibility¹ for TPS pursuant to 8 C.F.R. § 244.5(b). As provided in 8 C.F.R. § 244.13(a), temporary treatment benefits terminate upon a final determination with respect to the alien's eligibility for TPS.

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, she is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

The record indicates that the applicant subsequently was fingerprinted and the Federal Bureau of Investigation fingerprint results reports dated June 21, 2005 and April 21, 2006, do not reflect a criminal record that would bar the applicant from receiving TPS.

However, it is noted that the applicant furnished insufficient credible evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the TPS application on December 26, 2001. The applicant submitted evidence dated from 1991 to 1998, prior to the requisite period required to establish residence and physical presence; documents in the Spanish language without English translation as required by 8 C.F.R. § 103.2(b)(3); and two affidavits from individuals without supporting documentary evidence. The only other documentary evidence during the requisite period is an identification card from Iglesia Universal, Los Angeles,

¹ Pursuant to 8 C.F.R. § 244.1, *prima facie* means eligibility established with the filing of a completed application for TPS containing factual information that if un rebutted will establish a claim of eligibility under section 244 of the Act.

California, dated March 1, 2001. The applicant furnished very minimal evidence to establish eligibility from February 2001 to December 26, 2001. The remaining documentary evidence shows dates during 2003, 2004, 2005, subsequent to the filing of the initial TPS application. Therefore, the application will 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.