



U.S. Citizenship
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Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

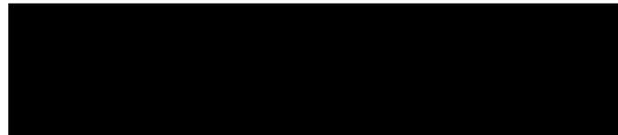
Date: **SEP 05 2007**

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IN RE:

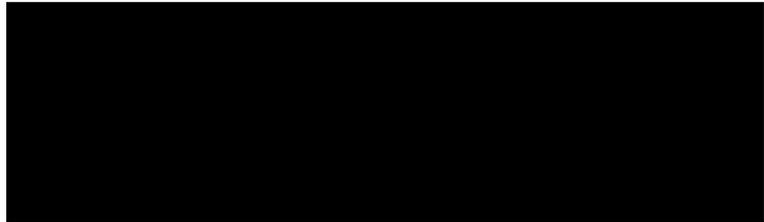
Applicant:



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 (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be 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 TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number EAC 02 001 53575. The Director, Vermont Service Center (VSC), denied that application on June 3, 2003, due to abandonment because the applicant failed to respond to a Notice of Intent to Deny requesting additional evidence. The applicant filed a second application for TPS under CIS receipt number LIN 04 090 50250 on February 10, 2004. The Director, Nebraska Service Center (NSC) denied the application on May 6, 2005, because the applicant failed to submit sufficient evidence to establish her identity and nationality, eligibility for late registration, and qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. After a review of the record, the Chief, AAO, concurs with the directors' denial decisions.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 17, 2005, and indicated that she was re-registering for TPS.

The CSC director denied the re-registration application on April 15, 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 filed her current appeal from that decision on May 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.

On appeal, counsel argues that the CSC director erred in his decision to deny the application because the applicant filed for late registration and not re-registration. However, the application is clearly marked as an application for re-registration, not as an initial application. Therefore, counsel's claim is without merit or basis in fact.

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.

Other than counsel's assertion, 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 as a result of being fingerprinted in connection with this application, CIS received a report from the Federal Bureau of Investigation (FBI) indicating that the applicant was arrested by the U.S. Border Patrol and charged with illegal entry into the United States in Del Rio, Texas, on October 4, 1998. The records further show that the applicant was convicted by the United States Magistrate at Del Rio, Texas on October 6, 1998, and sentenced to 30 days confinement suspended upon placement on unsupervised probation.

During removal proceedings held on May 25, 1999, the applicant failed to appear at the scheduled hearing; therefore, an Immigration Judge ordered the applicant removed from the United States to El Salvador. A Warrant of Removal/Deportation, Form I-205, was issued by the District Director, San Antonio, Texas on July 23, 1999. The warrant remains outstanding.

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.