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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: FEB 05 2008
[WAC 05 118 71671]

IN RE: Applicant: [REDACTED]

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 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, 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 CIS receipt number WAC 01 159 52399. The director denied that application on November 20, 2001, because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The director dismissed a subsequent motion to reopen on February 11, 2004. The applicant did not appeal the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 26, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration 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, 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).

The record reflects that the applicant filed another Form I-821 application on June 3, 2004, CIS receipt number EAC 04 186 53519, indicating that he was filing a first application for TPS. The director denied that application on May 23, 2007. The record does not reflect that the applicant has appealed that decision, and it is not at issue in this decision.

The record also reflects that on March 18, 2003, the applicant was convicted of battery, in violation of California Penal Code 242. He was placed on summary probation and 30 days of "Cal Trans" (physical labor with the California Department of Transportation) (Case no. [REDACTED]). The records of the Federal Bureau of Investigation also reflect that the applicant was arrested on October 12, 2000, by the Norwalk, California Sheriff's Office and charged with forging an official seal. The record does not contain a final disposition of that offense.

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.