

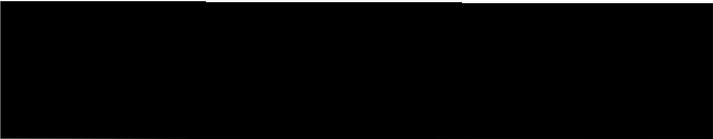


U.S. Citizenship
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: SEP 03 2008
[WAC 06 035 50466, appeal]
[WAC 05 134 81539]

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 California 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 (CSC), 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 01 158 55491 during the initial registration period. The Director, Texas Service Center (TSC), denied that application on November 12, 2002, after determining that the applicant had abandoned his application by failing to respond to a request to appear for fingerprinting. A subsequent application under receipt number SRC 01 158 55491 was denied on March 12, 2003. A motion to reopen the March 12, 2003 determination was denied by the TSC Director on December 19, 2003.

The applicant filed the current Form I-821 on February 11, 2005, and indicated that he was re-registering for TPS.

The CSC 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 an alien is filing a re-registration application, 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.

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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

Furthermore, on May 3, 2001, the applicant was convicted of public lewdness by a Judge in the County Court at Law No. 5, Collin County, Texas, a misdemeanor. (Docket No. [REDACTED]). Additionally, on May 10, 2002, he was convicted of driving while intoxicated by a Judge in the County Court at Law No. 5, Collin County, Texas, a misdemeanor. (Docket No. [REDACTED]). Consequently, the applicant is ineligible for TPS due to his record of at least two misdemeanor convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The director's decision to deny the application is affirmed for this additional reason.

On August 25, 2006, the applicant was granted the opportunity to voluntarily leave the United States by October 24, 2006 by an Immigration Judge in Dallas, Texas. The Judge's order further stated that if he failed to depart, the privilege of voluntary departure was withdrawn and the applicant was ordered deported from the United States to El Salvador. The record does not show that he departed this country as ordered.

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 cited 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.