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**U.S. Citizenship  
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Services**

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[REDACTED]

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FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

**JUL 24 2006**

[WAC 05 158 70648]

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 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 (AAO) on appeal. The appeal will be dismissed.

The applicant is stated 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 on July 16, 2001 under receipt number WAC 01 244 57169. On February 24, 2004, the applicant was requested to submit his fingerprints; however, there is no record that the applicant appeared to be fingerprinted. The director denied the application on August 26, 2004, after determining that the applicant had abandoned his application by failing to respond to a request for evidence and failing to be fingerprinted. It is noted that the fingerprint notice was sent to the same address where the applicant is currently residing.

On October 13, 2004, the applicant submitted a motion to reopen, claiming he did not receive the fingerprint notice. On October 26, 2004, the director denied the motion to reopen, finding the motion untimely and noting that the fingerprint notice was sent to the same address where the applicant received the Employment Authorization Documents (EAD), issued on February 21, 2003 and February 25, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 7, 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 therefore not eligible to apply for re-registration under TPS.

On appeal, the applicant disagreed with the director's decision and asked for reconsideration.

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 had 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.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (2) During any subsequent extension of such designation if at the time of the initial registration period:

- (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
  - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
  - (iii) The applicant is a parolee or has a pending request for reparole; or
  - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The initial registration period for El Salvador was from March 9, 2001 to September 9, 2002. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on March 7, 2005.

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 burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

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.

It is noted that from the FBI printout, it appears that the applicant was arrested on at least three separate occasions. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). On September 4, 2003 and September 5, 2003, the applicant was arrested and charged with possession, manufacturing, or selling a dangerous weapon. On January 6, 2006, the applicant was arrested for driving with a suspended or revoked license. Since the actual court dispositions for these offenses are not provided, it is unknown whether the applicant was convicted of any crimes.

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.