

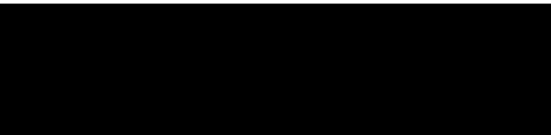
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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AUG 01 2007

FILE: [REDACTED]  
[WAC 05 198 70067]

Office: CALIFORNIA SERVICE CENTER

Date:

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: [REDACTED]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 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 SRC 01 162 56969. The Director, Texas Service Center, denied that application on February 5, 2002, due to abandonment, because the applicant failed to respond to the director's request for evidence.

The applicant filed a second TPS application subsequent to the initial registration period under CIS receipt number EAC 04 007 51478. The Director, Vermont Service Center, approved that application on January 21, 2005, noting that because the applicant had an application for voluntary departure pending during the initial registration period, he had established that he was eligible for late registration.

Contrary to the director's decision on this issue, the AAO finds that the evidence submitted demonstrates that the applicant is not eligible for late registration. The record shows that the applicant was apprehended on or about November of 1998 as he was attempting to illegally enter into the United States. The record further shows that the applicant was served with a notice to appear for a hearing in removal proceedings on September 5, 2002. The record also shows that the applicant failed to appear for the removal proceedings and subsequently INS issued a Warrant of Removal/Deportation on February 6, 2003. The Warrant of Removal/Deportation remains outstanding.

The applicant has failed to submit evidence demonstrating that during the initial registration period from March 9, 2001, to September 9, 2002, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which was pending or subject to further review or appeal, or was the spouse or child of an alien currently eligible to be a TPS registrant. The applicant has not demonstrated that he is eligible for late registration pursuant to 8 C.F.R. § 244.2(f)(2). The director's approval with respect to this issue will be withdrawn and the September 5, 2003 TPS application will be denied.

If a decision to withdraw Temporary Protected status is entered by the AAO, the AAO shall notify the alien of the decision and the right to a de novo determination of eligibility for Temporary Protected Status in removal proceedings, if the alien is then removable. 8 C.F.R. § 244.14(c).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 16, 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's TPS has been withdrawn. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

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.

Beyond the decision of the director, the applicant has failed to submit sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001 to the date of filing. For this additional reason the TPS application will be denied.

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 prior TPS approval is withdrawn and the appeal is dismissed.