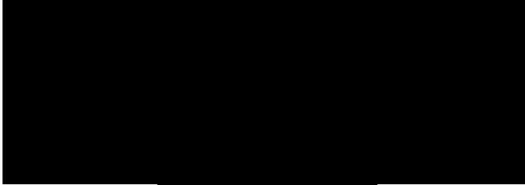




U.S. Citizenship
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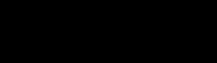
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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: AUG 27 2007

[WAC 05 140 77519]

IN RE:

Applicant:



APPLICATION:

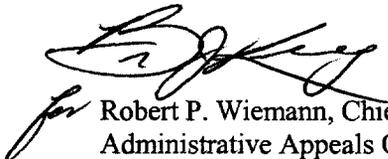
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

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.


for 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 summarily dismissed as moot.

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 record reveals that the applicant filed an initial TPS application on November 4, 2002, after the initial registration period for El Salvadorans had closed,¹ under receipt number WAC 03 053 55139. The director denied that application on June 28, 2004, because the applicant was convicted of two misdemeanor offenses, namely:

- (1) In a 7-count indictment on July 2, 2001, in the Superior Court of California, County of San Mateo, under Case No. [REDACTED] the applicant was convicted of Count 2, driving with .08 percent blood alcohol level or more, 23152(b) VC, a misdemeanor, on July 12, 2001.
- (2) On August 15, 1997, in the Superior Court Northern Branch, County of San Mateo, California, under Case No. [REDACTED] the applicant was convicted of "possession of valid driver's license," 12951(a) VC, a misdemeanor.
- (3) It is noted that on June 26, 1998, in the Superior Court Northern Branch, County of San Mateo, California, under Case No. [REDACTED] the applicant was indicted for driving while license suspended or revoked, 14601(a) VC, a misdemeanor, including two other infractions. On August 27, 2001, the case was dismissed "on motion by prosecution."

The applicant did not file Form I-290B, Notice of Appeal to the Administrative Appeals Office, within 30 days of the director's decision.

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

The director denied the re-registration application on July 5, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts that he believes there are some errors because he has never used the name [REDACTED] as mentioned in the denial decision dated June 28, 2004.² He admits to his two convictions, but states that they are misdemeanors. The applicant requests reconsideration because he has a United States citizen child that he supports and he has to provide for his family.

The applicant is filing the current TPS application as a re-registration; therefore, 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.

¹ The applicant in this case qualifies for late registration described in 8 C.F.R. § 244.2(f)(2) as he had an asylum application that was pending during the initial registration period for El Salvadorans.

² Although the director correctly listed the applicant's name and address on the Notice of Decision denying the initial TPS application dated June 28, 2004, the director erroneously listed the name of [REDACTED] as the applicant whose Form I-821 was being denied.

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.

It is noted that the applicant, on appeal, has not overcome the director's findings. The applicant was convicted of two misdemeanors and his convictions continue to preclude a favorable finding of eligibility for TPS. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

It is noted that in removal proceedings held on June 21, 2007, in San Francisco, California, the Immigration Judge (IJ) denied the application for asylum, the application for withholding of removal, and the application for protection under Article III of the U.N. Convention Against Torture. The IJ, however, granted the application for cancellation of removal under section 240A(b) of the Act. The IJ's order stated: "Grant subject to numerical limits INA 240A(e)." The applicant's status was subsequently adjusted to that of a lawful permanent resident (under the classification of Z13) on June 21, 2007. Therefore, the adjustment to lawful permanent residence renders the TPS application as moot.

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 summarily dismissed.