



U.S. Citizenship
and Immigration
Services

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FILE:

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Office: CALIFORNIA SERVICE CENTER

FEB 01 2007

Date:

[WAC 05 152 73698]

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 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 02 256 54491. The Texas Service Center (TSC) Director denied that application on July 22, 2003, after determining that the applicant had abandoned his application by failing to appear for fingerprinting. After a review of the record, the Chief, AAO, concurs with the TSC director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 1, 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 applicant's adjustment of status application was denied on April 25, 2003, by an Immigration Judge at Miami, Florida.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his qualifying continuous physical presence and continuous residence during the requisite time periods. 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also be denied for these reasons.

Although not addressed by the director, the record of proceedings contains the Federal Bureau of Investigation report reflecting the following:

- 1) On September 22, 1996, the applicant was arrested by the Houston Police Department and charged with "Engaging Organized Crime";
- 2) On April 23, 1997, the applicant was arrested by the Houston Police Department and charged with "UUMV"; and,
- 3) On May 23, 1997, the applicant was arrested by the Huntsville Byrd Unit and charged with "Engage Organized Crime."

CIS must address these arrests and/or convictions in any future decisions or proceedings.

It is also noted that the applicant had been ordered removed from the United States on February 18, 1998, by an Immigration Judge at Houston, Texas, under the file number A75 230 425.

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.