U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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FILE: [redacted] OFFICE: CALIFORNIA SERVICE CENTER DATE: JAN 24 2007
[WAC 05 113 72794

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.

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.

The applicant claims to be 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 a TPS application during the initial registration period on July 1, 2002, under Citizenship and Immigration Services (CIS) receipt number WAC 02 224 52336. The director denied that application on February 18, 2003, because the applicant had failed to respond to a request dated December 12, 2002, to submit: (1) evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application; and (2) evidence to establish nationality and identity. Although the applicant was advised that she could appeal the director's decision by filing a completed Form I-290B, Notice of Appeal to the Administrative Appeals Office, within 30 days of the director's decision, the record does not contain evidence that the applicant filed a Form I-290B.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 21, 2005, and indicated that she was re-registering for TPS. The director denied the re-registration application on December 2, 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 states that she believes her appeal was erroneously denied, and that she will submit a brief in 90 days. To date, no additional statement or evidence has been provided.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

> *Summary dismissal.* An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The applicant has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Further, while the applicant states that additional evidence will be provided, the file contains no further response from the applicant. Accordingly, the appeal will be summarily dismissed.

It is noted that the applicant has not overcome the director's denial of the initial TPS application because the record as presently constituted contains no evidence to establish that the applicant has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, and to establish nationality and identity.

The record of proceeding contains documents indicating that on November 16, 2005, the applicant attempted to gain entry into the United States at the San Luis, Arizona Port or Entry, by presenting an altered laser visa (DSP-150) issued to a Mexican national onto which her photograph had been substituted. She stated in a sworn statement before a U.S. Customs and Border Protection officer that she and her husband met with an unknown document vender who sold them the two documents that they presented. On November 17, 2005, a Criminal Complaint was filed in the United States District Court, District of Arizona, charging the applicant with Count 1, possession of an altered immigration document in which the defendant knew was false, forged, altered, counterfeit, in violation of 18 U.S.C § 1546, a felony; and Count 2, did knowingly and intentionally

attempt to enter the United States by willfully false and misleading representations, and willful concealment of a material fact, in violation of 8 U.S.C. § 1325(a)(3), a misdemeanor. It is not clear in the record whether the applicant was ultimately convicted of these offenses although the Federal Bureau of Investigation fingerprint results report indicates that the applicant was sentenced to "expedited removal prosecution 7 days in jail."

The record contains Form I-860, Notice and Order of Expedited Removal, issued on November 17, 2005. On November 28, 2005, the applicant was removed from the United States "afoot" from the San Luis, Arizona Port of Entry. The applicant was advised on Form I-296, Notice to Alien Ordered Removed/Departure Verification, that she is prohibited from entering, attempting to enter, or being in the United States for a period of five years from the date of her departure from the United States.

Section 212(a)(9)(A)(i) of the Act states, in part:

> Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal is inadmissible.

Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. 1182(a)(6)(C)(i), states, in part:

> Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

The applicant appears to have been present in the United States on January 6, 2006, when she filed an appeal to the Administrative Appeals Office regarding the denial of her TPS application. Therefore, the applicant is inadmissible to the United States, pursuant to section 212(a)(9)(A)(i) of the Act, based on her reentry into the United States within five years after having been removed. The applicant is also inadmissible to the United States, pursuant to section 212(a)(6)(C)(i) of the Act, for willfully misrepresenting a material fact by presenting a fraudulent document to facilitate her entry into the United States. While a waiver of grounds of inadmissibility may be available to an alien found inadmissible under these sections, there is no evidence that the applicant has filed a Form I-601 waiver application.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The appeal is summarily dismissed.