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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: NOV 26 2007
[WAC 05 139 71169]

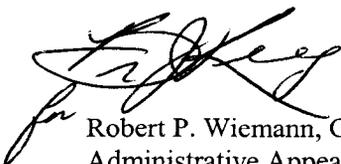
IN RE: Applicant: [REDACTED]

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 dismissed.

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 a TPS application during the initial registration period on November 23, 2001, under receipt number WAC 02 055 51629. The director denied that application on June 18, 2004, after determining that the applicant had abandoned his application based on his failure to respond to a request dated December 22, 2003, to submit evidence to establish his nationality and identity, and evidence to establish continuous residence in the United States since February 13, 2001. There is no appeal from a denial due to abandonment; however, the applicant could have filed a motion to reopen within 30 days of the date of the denial notice. 8 C.F.R. § 103.2(b)(15). The record does not reflect that the applicant filed a motion within the allotted timeframe.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 16, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on August 16, 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 never received any notice requesting additional evidence. He further asserts that the Service did not request such evidence by certified mail to ensure proper delivery.

A review of the record of proceeding indicates that the request for evidence dated December 22, 2003, and the director's notice of decision to deny the application dated June 18, 2004, were both mailed to the applicant at his address [REDACTED]. There is no evidence in the record that the notices were returned to CIS as undeliverable. Further, regulations at 8 C.F.R. § 103.5a(a) do not require that notices, decisions, and other USCIS papers (with the exception of "warrants and subpoenas" or as provided in section 239 of the Act) be sent by certified or registered mail. Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

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

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.