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U.S. Citizenship
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[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

OCT 03 2007
Date:

[WAC 05 222 83955]

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.

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 EAC 01 170 50012. The Director, Vermont Service Center, denied that application on August 30, 2002, due to abandonment, because the applicant failed to respond to the director's request for evidence.

The record also reveals that the applicant filed a second TPS application subsequent to the initial registration period under CIS receipt number EAC 03 018 50893. The Director, Vermont Service Center, denied that application on April 13, 2004, due to abandonment, because the applicant failed to respond to the director's request for evidence.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 10, 2005, and indicated that she 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, she 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 has failed to submit sufficient evidence to establish continuous residence and continuous physical presence in the United States as described in 8 C.F.R. §§ 244.2(b) and (c).

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).

It is noted that the applicant filed a TPS application on April 5, 2001, [EAC 01 170 50012] that was denied by the Director, Vermont Service Center, on August 30, 2002, due to abandonment, because the applicant failed to respond to the Notice of Intent to Deny. The record of proceedings contains a motion to reopen submitted by the applicant on August 28, 2006. This motion will be rejected as untimely in that the applicant was advised to submit a response to the director's denial within 33 days of the decision, but didn't file her motion until four years after the decision was rendered.

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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

ORDER: The appeal is dismissed.