



U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date:

SEP 04 2007

[WAC 05 146 79944]

IN RE:

Applicant:



APPLICATION:

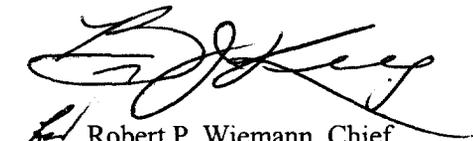
Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

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 California Service Center. 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 on appeal. The appeal will be dismissed.

The applicant is stated 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 an initial TPS application on September 12, 2001, under CIS receipt number SRC 01 270 55317. The Texas Service Center Director denied that application due to abandonment, on May 7, 2004, because the applicant failed to respond, within 30 days, to an April 5, 2004 request to submit evidence to establish her continuous residence, and her continuous physical presence in the United States. A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 23, 2005, under CIS receipt number WAC 05 146 79944, and indicated that she was re-registering for TPS. The director denied the re-registration application on August 15, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

On appeal, the applicant states only that she needs to have Temporary Protected Status and employment authorization, and that she has been in the United States since 1999, and she has sufficient evidence to establish her continuous residence and continuous physical presence in the United States. With her appeal, in an attempt to establish her continuous residence and her continuous physical presence, the applicant submits evidence consisting of photocopies of: -

- 1) Two Employment Authorization Cards, valid from November 6, 2001 through September 9, 2002, and from December 3, 2003, through March 9, 2005, respectively;
- 2) A Mortgage Interest Statement, Form 1098, for the year 2002;
- 3) Three CIS notices, dated in September 2001; and,
- 4) Various invoices, and documents dating from July 2002.

However, 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.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish continuous residence since February 13, 2001, and continuous physical presence in the United States from March 9, 2001 to the filing of the initial application. It is noted that given that the applicant claims that she has been in the United States since July 1999, it is reasonable to expect that the applicant would be able to provide reliable evidence to establish her continuous residence and continuous physical presence during the requisite periods. Therefore, the application must also be denied for these reasons.

It is noted that the record contains an outstanding warrant of removal based on an Order by an Immigration Judge at an *in absentia* hearing on January 20, 2000.

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