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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: California Service Center DATE: **SEP 13 2007**
[WAC 05 224 70473]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant claims to be 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 an initial Form I-821, Application for Temporary Protected Status, on February 20, 2002. The application was denied by the director on the ground of abandonment on October 10, 2002, after the applicant failed to respond to a request for evidence of his date of entry into the United States, of his continuous residence in the United States since February 13, 2001, and of his continuous physical presence in the United States since March 9, 2001. The applicant subsequently filed two more TPS applications, in November 2002 and May 2003, which were denied in July 2003 and February 2004, respectively, after the applicant failed in each case to respond to a notice of intent to deny.

The current Form I-821, identified by the applicant as an application for re-registration or renewal of TPS, was filed on March 10, 2005.

The director denied the re-registration application on December 9, 2005, on the ground that the applicant's initial TPS application had been denied, thereby making him ineligible for re-registration under section 244 of the Act. The applicant has appealed.

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. *See* 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. Accordingly, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, the evidence submitted on appeal, together with previously submitted evidence, is still not sufficient to establish that the applicant has been continuously physically present in the United States since March 9, 2001, and a continuous resident of the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). Counsel cites a Notice to Appear at a U.S. Immigration Court in Bloomington, Minnesota, issued to the applicant in the course of removal proceedings on September 8, 2004 – which contains language stating that “[t]he Service alleges that you . . . arrived in the United States at or near Houston, Texas, on or about July 18, 2000” – as evidence of the applicant's residence and physical presence in the United States from that date forward. This allegation, however, is merely a restatement of the applicant's own statement on his initial and subsequent TPS applications that he entered the United States in Houston, Texas, on July 18, 2000. There is no documentation in the record to confirm the applicant's arrival on that date. On his latest TPS application the applicant stated that he entered the United States as a non-immigrant visitor (B1/B2), but that he subsequently lost all his documents. This information conflicts with that in the applicant's previous three TPS applications, in which he indicated that he entered the United States without inspection. On appeal, counsel submits a document from the El Salvadoran Ministry of the Interior, dated May 11, 2005, confirming that the applicant

flew from Houston, Texas, to El Salvador on May 22, 2000, and flew back to Houston on June 19, 2000. No information is provided about the applicant's whereabouts after June 2000. Counsel also submits two affidavits from individuals in Los Angeles, California, dated January 17 and 19, 2005, who state that the applicant has lived in Los Angeles from August 2000 up to the present time. This information conflicts, however, with that provided by the applicant in all four of his TPS applications, which identify the applicant's mailing address from 2002 to 2005 as located in St. Paul, Minnesota.

As discussed above, the evidence of the applicant's continuous residence and physical presence in the United States is not only insufficient, but lacks credibility. For this additional reason the application must be denied.

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 that burden.

ORDER: The appeal is dismissed.