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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: AUG 21 2006
[WAC 05 127 78261]

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:



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 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.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The record reveals that the applicant filed an initial TPS application on September 23, 2003, under Citizenship and Immigration Services (CIS) receipt number WAC 04 007 53505. The director denied that application on February 27, 2004, because the applicant had failed to register in a timely manner. On April 8, 2004, the applicant filed an appeal from the denial decision. The director rejected the applicant's appeal on May 25, 2004, because the appeal was untimely filed, and the appeal did not meet the requirements of a motion to reopen or reconsider pursuant to 8 C.F.R. § 103.5(a)(2) and (3).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 4, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on October 6, 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, counsel states that the applicant registered for TPS during the initial registration period, and his application was denied. He asserts that the denial of a prior TPS application does not, as the director contends, preclude an alien from receiving TPS benefits during a subsequent registration period. Counsel contends that if an applicant timely applied for TPS during the initial registration period, and timely re-registered during each re-registration period, an applicant is eligible to receive TPS benefits during any subsequent re-registration period. Counsel further asserts that the applicant is not precluded from receiving TPS benefits solely because his prior TPS application was not granted.

Despite counsel's assertions, the record indicates that the applicant's initial application was filed on September 23, 2003, after the initial registration period for El Salvadorans had closed. That application was denied on February 27, 2004, and a subsequent appeal was rejected on May 25, 2004. 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, 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.