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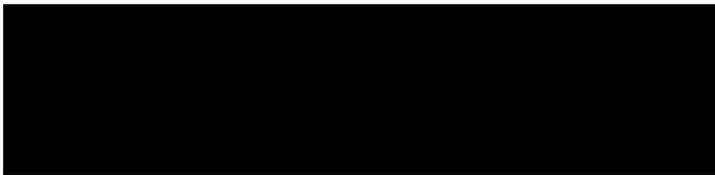
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: AUG 21 2006  
[WAC 05 188 72133]

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.

The record reveals that the applicant filed a TPS application during the initial registration period on September 26, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 02 034 57696. The director denied that application on May 18, 2004, because the applicant had failed to respond to a request dated March 26, 2004, to submit the final court dispositions of all of his arrests. Although the applicant was advised that he could appeal the director's decision by filing a completed Form I-290B, Notice of Appeal to the Administrative Appeals Office, within 30 days of the director's decision, the record does not contain evidence that the applicant filed a Form I-290B.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 6, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on June 2, 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 submits a copy of a court disposition relating to the applicant's March 24, 2002 arrest, and asserts that the applicant's only offense does not disqualify him from the TPS program.

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.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

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. The record reveals that the applicant filed the current application with CIS on April 6, 2005.

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 burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). However, the provisions of TPS do not allow approval of any application filed by an individual convicted of a felony or two or more misdemeanors. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The record reveals the following:

- (1) The Federal Bureau of Investigation (FBI) fingerprint results report indicates that June 28, 1981, in Visalia, California, the applicant was arrested and charged with auto theft. The FBI report shows that on July 13, 1981, the applicant was convicted of theft, 499b PC, a misdemeanor, and that he was sentenced to 30 days in jail. However, the actual final court disposition of this offense is not contained in the record.
- (2) The FBI report indicates that on March 24, 2002, in San Jose, California, the applicant was arrested for assault and battery. On appeal, counsel submits an incomplete court document of the Hall of Justice, San Jose, California, regarding a Restitution Hearing held on November 22, 2004 (Case No. CC244793), for the misdemeanor offense of 415 PC (disturbing the peace), indicating that the applicant was placed on court probation and was fined \$130. The applicant failed to submit the complete court documents relating to this arrest and/or conviction.
- (3) The FBI report indicates that on May 27, 2004, in San Jose, California, the applicant was arrested for battery on a person. The final court disposition of this offense is not contained in the record.

The applicant has failed to provide the final court dispositions of his arrests, detailed in Nos. 1, 2, and 3 above. The reasons for the initial denial have not been overcome. Therefore, the application also must be denied for this reason.

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.