

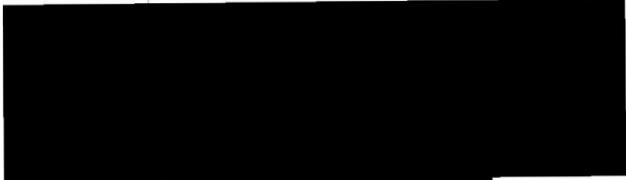


U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date: **DEC 29 2006**

[WAC 05 208 83148]

IN RE:

Applicant:

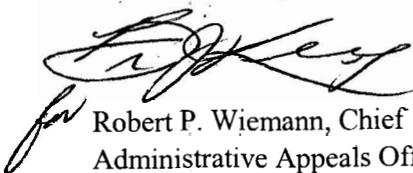


APPLICATION : Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 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 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 an initial TPS application on April 4, 2001, under CIS receipt number SRC 01 166 58788. The Atlanta District director denied that application, on April 9, 2004, because the applicant failed to report for an interview scheduled for March 1, 2004. The director, therefore, considered the TPS application abandoned. 8 C.F.R. § 103.2(b)(13). 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 April 26, 2005, under CIS receipt number WAC 05 208 83148, and indicated that he was re-registering for TPS. The director denied that application on September 2, 2005, because the applicant's initial TPS application had been denied because the applicant did not establish prima facie eligibility for TPS.

On appeal, the applicant states that he does not understand why his TPS application was denied. The applicant does not submit any evidence with the appeal.

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 applicant's Federal Bureau of Investigation (FBI) results reflects that the applicant was arrested by the Sheriff's Office Chatsworth, Georgia, on March 27, 2004, and charged with Simple Battery. The AAO notes that the final court disposition is not in the record of proceeding. CIS must address this arrest in any future proceedings.

It is also noted that the record reveals that the applicant is inadmissible to the United States based on his return to the United States within five years after his deportation. The applicant was apprehended on entry, on November 17, 1999, placed in Removal Proceedings, was ordered removed by the Immigration Judge on March 5, 1999, and was deported to El Salvador on April 9, 1999. Although the applicant was provided the opportunity to submit Form F-601, Application for Waiver of Grounds of Excludability, on September 8, 2001, the record does not reflect that he submitted the application. Therefore, the application will also be denied for this reason. 8 C.F.R. § 244.3(b)

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.