



U.S. Citizenship
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Services

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FILE: [REDACTED]
[WAC 05 123 74754]

Office: CALIFORNIA SERVICE CENTER

Date: JUL 24 2006

IN RE: Applicant:

[REDACTED]

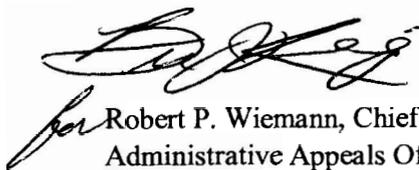
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 California Service Center. 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 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 a Form I-821, Application for Temporary Protected Status, during the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 01 266 56391. The director denied that application on August 31, 2004, after determining that the applicant had abandoned his application by failing to respond to a request for evidence.

Since the application was denied due to abandonment, there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed the current Form I-821, on August 18, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If an alien is filing a re-registration application, 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.

Beyond the decision of the director, the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. He has provided a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore the application shall be denied for this additional reason.

The applicant's Federal Bureau of Investigation identification record shows that he was arrested on January 24, 1997, under the name [REDACTED] by a Border Patrol officer in Harlingen, Texas. On that date, he claimed to have been born in Potrerillo, Quesanda, Guatemala. At his deportation hearing on February 19, 1997, the applicant admitted that he was a native and citizen of Guatemala and was ordered deported to that country. He was deported to Guatemala on March 6, 1997 from the Houston, Texas, International Airport. It is noted that the applicant submitted his first Form I-821 on August 30, 2001. On that application he stated that his place of birth and country of citizenship as El Salvador and not Guatemala. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

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.