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FILE:



Office: California Service Center

Date:

NOV 21 2006

[WAC 05 210 96014]

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.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

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 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 September 5, 2002, under CIS receipt number SRC 02 261 54030. The director denied that application, on March 29, 2003, because the applicant failed to respond to a request for evidence to establish his eligibility for TPS. The director noted that the applicant failed to respond to the notice of intent to deny, dated January 31, 2001. The director, therefore, considered that 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 28, 2005, under CIS receipt number WAC 05 210 96014, and indicated that he was re-registering for TPS.

The director denied that application on August 16, 2005, because the applicant's initial TPS application had been denied due to the applicant's failure to establish prima facie eligibility for TPS.

On appeal, the applicant states only that he is awaiting a decision on the TPS application he filed on August 25, 2003. With the appeal, in an attempt to establish eligibility for TPS, the applicant submits: 1) an unclear copy of an El Salvador driver's license; and a photocopy of an EAD card showing validity from January 31, 2003 through March 9, 2003.

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.

Beyond the decision of the director, it is noted that although the record of proceedings contains an El Salvador birth certificate and English translation, the applicant submitted an unclear photocopy of a purported El Salvador driver's license that does not establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). In addition, the applicant has not submitted sufficient evidence to establish his continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. Therefore, the application will also be denied for these reasons.

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.