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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **SEP 26 2006**  
[WAC 05 224 72525]

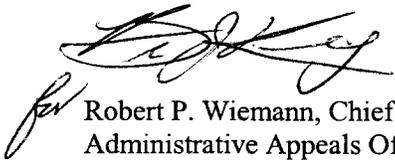
IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT: 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.

  
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 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 May 7, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 211 50797. The director denied that application based on abandonment on November 23, 2004, because the applicant had failed to respond to a notice of intent to deny dated April 13, 2004, requesting that he submit the final court dispositions of all of his arrests, including his arrests listed on the Federal Bureau of Investigation fingerprint results report. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 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.

On appeal, the applicant asserts that the director's decision is incorrect because he timely responded and provided the certified copies of all his arrests as requested by CIS. The record of proceeding, however, is devoid of any evidence to establish that the applicant responded to the director's notice of intent to deny dated November 23, 2004, as claimed. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). In fact, it is noted that court documents from the Superior Court and Municipal Court for the County of Los Angeles, California, furnished by the applicant on appeal, are dated March 6, 2006, subsequent to the denial of the TPS applications.

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 May 12, 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, as is the case in this instance. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The record indicates the following offenses:

- (1) On December 30, 1997, in Los Angeles, California, the applicant was arrested for Count 1, driving under the influence of alcohol, 23152(a) VC, a misdemeanor; Count 2, driving with .08 percent blood alcohol level or more, 23152(b) VC, a misdemeanor; and Count 3, unlicensed driver, 12500(a) VC, a misdemeanor. On December 31, 1997, the Municipal Court of Van Nuys Courthouse Judicial District, County of Los Angeles, California, under Case [REDACTED] ordered the complaint amended by interlineations to add the misdemeanor offense of 23109(c) VC, exhibition of speed/engage aid/abet, as to Count 4. The court found the applicant guilty of Count 4. He was placed on probation for a period of 24 months, and ordered to pay \$703 in fines and costs. Counts 1, 2, and 3 were dismissed.
- (2) On April 6, 1999, in the Municipal Court of Van Nuys Courthouse Judicial District, County of Los Angeles, California, Case [REDACTED] (arrest date April 3, 1999), the applicant was indicted for Count 1, driving under the influence of alcohol, 23152(a) VC, a misdemeanor; Count 2, driving with .08 percent blood alcohol level or more, 23152(b) VC, a misdemeanor; Count 3, driving with suspended license, 14601.1(a) VC, a misdemeanor; and Count 4, unlicensed driver, 12500(a) VC, a

misdemeanor. On May 28, 1999, the applicant was convicted of Count 2. He was placed on probation for a period of 36 months under the condition that he serve 48 hours in the county jail, ordered to pay \$1,350 in fines and costs, and to enroll and successfully complete a 3-month licensed first-offender alcohol and other drug education and counseling program. Counts 1, 3, and 4 were dismissed.

(3) On December 10, 2003, in the Superior Court of California, County of Los Angeles, Case No. [REDACTED] (arrest date November 27, 2003), the applicant was indicted for Count 1, driving under the influence of alcohol, 23152(a) VC, a misdemeanor; and Count 2, driving with .08 percent blood alcohol level or more, 23152(b) VC, a misdemeanor. On December 26, 2003, the applicant was convicted of Count 2. He was placed on probation for a period of 36 months, ordered to pay \$1,272 in fines and costs, perform 5 days of "Cal Trans," enroll and successfully complete a 3-month licensed first-offender alcohol and other drug education and counseling program, and driving was restricted for 90 days. Count 1 was dismissed. Because the applicant violated the terms of his probation, on February 24, 2006, the court ordered the applicant to serve 39 days in jail.

(4) On January 9, 2006, in the Superior Court of California, County of Los Angeles, Case [REDACTED] (arrest date January 5, 2006), the applicant was indicted for Count 1, driving under the influence of alcohol, 23152(a) VC, a misdemeanor; and Count 2, unlicensed driver, 12500(a) VC, a misdemeanor. On February 14, 2006, the applicant was convicted of Count 1. He was placed on probation for a period of 60 months under the condition that he serve 120 days in the county jail, and ordered to pay \$646 in fines and costs. Count 2 was dismissed.

The applicant was convicted of four misdemeanors, detailed in Nos. 1, 2, 3, and 4 above, and his convictions continue to preclude a favorable finding of eligibility for TPS. 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.