



U.S. Citizenship  
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **SEP 28 2006**  
[WAC 05 141 76748]

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 California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

*R. Wiemann*  
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 Form I-821, Application for Temporary Protected Status, under Citizenship and Immigration Services receipt number SRC 01 183 55413. The Director, Texas Service Center, denied that application on July 29, 2003, because the applicant had abandoned his application by failing to submit the disposition for December 14, 2002 arrest for driving while intoxicated (DWI).

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 until September 19, 2003, which was during the requisite timeframe. The director denied the motion as untimely on March 3, 2004.

The applicant filed the current Form I-821, on February 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 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.

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.

The applicant has not previously been granted TPS because he had not submitted the disposition for his DWI arrest on December 14, 2002. On appeal, the applicant submits a copy of a Misdemeanor Record Search signed by the Deputy County Clerk of Dallas County, Texas, dated March 20, 2006. The report reflects the applicant was arrested on December 14, 2002 for DWI under [REDACTED] and that he was convicted of that charge on May 14, 2003. The applicant also submits an affidavit from the Records Clerk of the City of Irving, Texas, Department of Police, that indicates that he was also arrested on March 10, 2002 for DWI. A court disposition for this second arrest has not been forwarded for the record by the applicant.

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.