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FILE:

Office: CALIFORNIA SERVICE CENTER

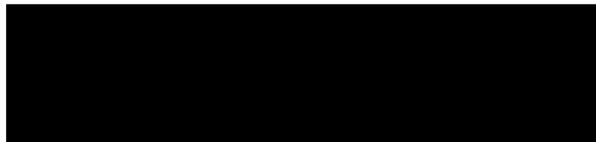
Date:

APR 02 2007

[WAC 05 126 73154 as it relates to SRC 01 238 55019]

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:



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 "Robert P. 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 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 Immigration and Naturalization Service [now Citizenship and Immigration Services (CIS)] receipt number SRC 01 238 55019. The Director, Texas Service Center, (TSC), denied that application on July 17, 2003, after determining that the applicant had abandoned his application by failing to respond to a request for evidence.

The applicant filed the current application, on February 3, 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.

The applicant filed the current Form I-821, on February 3, 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.

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, on October 6, 2004, the applicant was arrested by the Border Patrol near Roma, Texas. The applicant stated that he left his home in El Salvador on August 27, 2004 and entered the United States on October 6, 2004 by wading across the Rio Grand River. In removal proceedings held on January 11, 2005, an Immigration Judge in Houston, Texas, ordered the applicant deported "in absentia" to El Salvador. Beyond the decision of the director, it is determined that the applicant has provided insufficient evidence to establish his continuous residence and continuous physical presence during the required time period. 8 C.F.R. § 244.2 (b) and (c). Additionally, 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) and § 244.9(a)(1). Therefore the application shall be denied for these additional 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 cited 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.