



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]
[WAC 05 186 71642]

Office: CALIFORNIA SERVICE CENTER

Date: AUG 22 2007

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:

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 (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is 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 a first TPS application during the initial registration period under receipt number EAC 02 140 51304 with the Vermont Service Center (VSC). The VSC director denied that application on June 23, 2003, because the applicant failed to submit documents in response to a Request for Evidence and, therefore, had abandoned his application. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 4, 2005, and indicated that he was re-registering for TPS.

The CSC 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 counsel claims that the applicant has been a victim of ineffective assistance by a "notario" who submitted an insufficiently documented application.

However, there is no evidence contained in the record to indicate that the alleged ineffective counsel, Santiago Taveras, submitted a Form G-28, Notice of Entry of Appearance of Attorney or Representative, showing that he represented the applicant. Neither is there any indication on the various applications submitted by the applicant that Santiago Taveras prepared those forms at the request of the applicant. Citizenship and Immigration Services is not responsible for the inaction on the part of an applicant and/or individuals the applicant relies upon to process his or her TPS application.

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.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

An alien applying for TPS 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.