

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

M1

**PUBLIC COPY**



FILE: [REDACTED] Office: California Service Center Date: DEC 27 2007  
[WAC 05 137.71666]

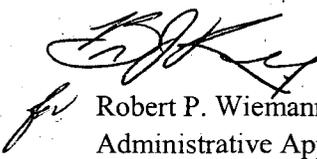
IN RE: Applicant: [REDACTED]

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

ON BEHALF OF PETITIONER: 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.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's temporary protected status was denied by the Director, California Service Center (CSC), and is currently 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 an initial TPS application on May 21, 2001, under CIS receipt number SRC 01 202 54184. The Director, Texas Service Center, denied that application, on March 10, 2003, because the applicant failed to respond to a notice of intent to deny dated January 13, 2003, wherein the director requested that the applicant submit a photo identification, and evidence to establish his continuous physical presence in the United States from March 9, 2001 to the date of filing the TPS application. 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 reflects that the applicant filed a motion to reopen and asserted that he did not receive the notice of intent to deny. The director reopened the application on December 30, 2003, allowed the applicant to submit additional evidence, but then again denied the application on May 7, 2004, because the applicant failed to overcome the grounds for the initial denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 14, 2005, under WAC 05 137 71666, and indicated that he was re-registering for TPS. The Director, California Service Center, denied this application on August 16, 2005, because the applicant's initial TPS application had been denied.

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, the applicant has not submitted sufficient evidence to establish continuous physical presence in the United States during the requisite periods. There is no evidence of the applicant's continuous physical presence from March 9, 2001, through May 22, 2001, the date of filing his initial TPS application. Therefore, the application must be denied for this additional 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.