



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: JAN 04 2007

[WAC 05 207 83715]

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:

[REDACTED]

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 (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be 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 applicant filed his initial TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 01 202 57480. The applicant's Federal Bureau of Investigation (FBI) fingerprint results report revealed that the applicant was arrested in Palos Verdes Estates, California, and charged with one count of driving without a valid driver's license, one count of failure to provide California driver's license or identification, and one count of failure to obey a juvenile court order. The applicant was subsequently arrested on November 7, 2003, and charged with failure to appear in court. On December 8, 2003, the applicant was requested to provide the final court disposition of these arrests. The notice was mailed to the applicant at his latest address, [REDACTED] but the record does not contain a response from the applicant.

The director denied that application on April 21, 2004, after determining that the applicant had abandoned his application by failing to respond to the request for additional evidence. The director informed the applicant that there is no appeal from a denial due to abandonment, but he could file a motion to reopen the case within 30 days of the issuance of the denial decision. The applicant did not file a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 25, 2005, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits.

The director denied the application on June 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration or renewal of his temporary treatment benefits.

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. If an applicant is applying for renewal of temporary treatment benefits, he or she must have a pending TPS application.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS or to renew temporary treatment benefits. 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) (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the *Federal Register*, or
- (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 Salvadorans was from March 9, 2001 through September 9, 2002. The record reveals that the applicant filed the current TPS application with CIS on April 25, 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 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 burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his 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). The applicant has also failed to submit an official Salvadoran photo identification document to establish his identity and nationality as set forth at 8 C.F.R. § 244.9(a)(1). Additionally, the applicant has failed to submit sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States throughout the requisite periods as set forth at 8 C.F.R. § 244.2(b) and (c). Therefore, the application also must be denied for these reasons.

It is noted that the applicant has subsequently provided a photocopy of a document from the Informal Juvenile and Traffic Court, Superior Court of California, County of Los Angeles, stating that the juvenile court does not use dockets or minutes. The document indicates that the applicant was convicted on September 13, 2001, of driving without a valid driver's license in violation of section 12500(a) VC, a misdemeanor. (Date of arrest: May 20, 2001; Citation Number [REDACTED]) The applicant was convicted on November 16, 2001, on one count of driving without a valid driver's license in violation of section 12500(a) VC, a misdemeanor. (Date of Arrest: September 30, 2001; Citation Number [REDACTED]) Juvenile court proceedings in the United States' courts are civil rather than criminal in nature. The Board of Immigration Appeals has affirmed the well-settled principle that an act of juvenile delinquency is not a crime in the United States and, therefore, not a conviction for immigration purposes. *Matter of Ramirez Rivero*, 18 I&N Dec. 135 (1981); *Matter of De La Nues*, 18 I&N Dec. 140 (1981). In this case, since the applicant's convictions took place in juvenile court, they do not constitute convictions for immigration purposes.

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.