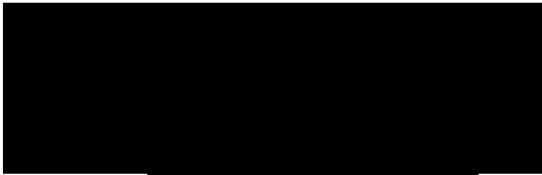


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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: JAN 17 2007  
[WAC 05 225 92621]

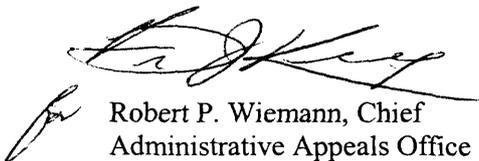
IN RE: Applicant: [REDACTED]

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 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 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 TPS application during the initial registration period on May 11, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 225 54552. The director denied that application on April 29, 2004, because the applicant had been convicted of three misdemeanors. On July 21, 2004, the director rejected the applicant's appeal, filed on June 7, 2004, because the appeal was untimely filed, and the appeal did not meet the requirements of a motion to reopen or reconsider pursuant to 8 C.F.R. § 103.5(a)(2) and (3).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 13, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on December 13, 2005, 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, the applicant requests that he be granted TPS because he has been living in the United States since 1995, and that his country has still not recovered from the earthquake. He resubmits copies of court documents of his arrests.

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.

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) (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 El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the current application with CIS on May 13, 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 or she 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 or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her 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). Therefore, the application also must be denied for this reason.

However, the provisions of TPS do not allow approval of any application filed by an individual convicted of a felony or two or more misdemeanors, as is the case in this instance. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The record indicates the following:

- (1) On March 15, 1995, in the Municipal Court of El Monte Courthouse Judicial District, County of Los Angeles, California, the applicant was indicted for Count 1, driving under the influence of alcohol/drug with bodily injury, 23153(a) VC, a misdemeanor; Count 2, driving with .08 percent blood alcohol level or more with bodily injury, 23153(b) VC, a misdemeanor; Count 3, hit and run causing death/injury, 20001(a) VC, a misdemeanor, Count 4, hit and run/property damage, 20002(a) VC, a misdemeanor; and Count 5, unlicensed driver, 12500(a) VC, a misdemeanor. On March 16, 1999, the applicant was convicted of Counts 2, 3, and 5. He was placed on probation for a period of 3 years under the condition that he serve 30 days in the county jail, ordered to pay \$1372 in files and costs, enroll and successfully complete a 3-month licensed first-offender alcohol and other drug education and counseling program, and his driving privilege was suspended for 12 months, as to Count 2; he was placed on probation for a period of 3 years under the condition that he serve 30 days in the county jail, as to Count 3; and he was placed on probation for a period of 3 years under the condition that he serve 30 days in the county jail, as to Count 5. Counts 1 and 4 were dismissed.
- (2) The Federal Bureau of Investigation (FBI) fingerprint results report indicates that on March 29, 2003, in Claremont, California, the applicant was arrested for failure to appear, written promise. The final court disposition of this arrest is not contained in the record although the applicant was requested on January 26, 2004, to submit the court dispositions of all of his arrests.

- (3) The FBI report indicates that on September 4, 2005, in Norwalk, California, the applicant was arrested for inflicting corporal injury to spouse/cohabitant. The court disposition of this arrest is not contained in the record.

The applicant is ineligible for TPS due to his three misdemeanor convictions, detailed in No. 1 above, and because he failed to provide the final court dispositions of his arrests, detailed in Nos. 2 and 3 above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Therefore, the application also must be denied for this 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.