



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 207 72307]

Office: CALIFORNIA SERVICE CENTER

Date:
JAN 19 2007

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: 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 (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 TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 01 223 56412. The director denied that application on June 17, 2004, after determining that the applicant had abandoned his application by failing to appear for his fingerprint appointment or request another opportunity to be fingerprinted. The director informed the applicant that there is no appeal from a denial due to abandonment, but he could file a motion to reopen his case within 30 days of the issuance of the denial decision. The applicant did not file a motion to reopen his case. 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 25, 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 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).

Beyond the decision of the director, it is noted that the applicant's 2006 Federal Bureau of Investigation (FBI) fingerprint results report revealed the following offenses:

1. On September 26, 2001, the applicant was arrested in Glendale, California, and charged with one count of grand theft auto and one count of failure to appear.
2. On May 15, 2002, the applicant was arrested in Norwalk, California, under the name [REDACTED] and charged with one count of driving without a valid driver's license and one count of possession of one ounce or less of marijuana while driving. Although the record does not contain any court documents reflecting the final court dispositions of these charges, the fingerprint results report indicates that the charge of possession of one ounce or less of marijuana while driving in violation of section 23222(b) VC was dismissed in the furtherance

of justice and the applicant was convicted on the charge of driving without a valid driver's license in violation of section 12500(a) VC, a misdemeanor.

3. On August 18, 2002, the applicant was arrested in Manhattan Beach, California, and charged with one count of driving on a suspended driver's license and one count of showing false identification to a police officer.
4. On September 5, 2005, the applicant was arrested in Los Angeles, California, and charged with driving under the influence of alcohol. Although the record does not contain the final court disposition of this charge, the fingerprint results report reveals that the applicant was convicted in the Municipal Court Metro Los Angeles Judicial District, County of Los Angeles, State of California, of one count of driving under the influence of alcohol with a blood alcohol content of 0.08% or greater in violation of section 23152(b) VC, a misdemeanor.

These offenses must be addressed in any further proceeding before CIS.

It is further noted that an Immigration Judge in Los Angeles, California, ordered the applicant removed to El Salvador in absentia on June 12, 1996. The record contains an outstanding warrant of removal issued by the District Director, Los Angeles, on July 31, 1996.

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.