

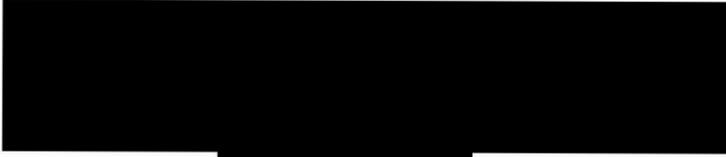
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U.S. Citizenship
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JAN 25 2007

FILE: [REDACTED]
[WAC 05 127 77476]

Office: CALIFORNIA SERVICE CENTER

Date:

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 (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 with Citizenship and Immigration Services (CIS) on September 23, 2003, under CIS receipt number WAC 04 015 52502. The director denied that application on July 8, 2004, because the applicant failed to establish his eligibility for late initial registration. 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 February 4, 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.

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).

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, it is noted that the applicant was apprehended by the United States Border Patrol on December 6, 2005, at a United States Border Patrol checkpoint near Dome Valley, Arizona. The Border Patrol officers encountered the applicant in a farm bus loaded with 33 other field workers. Thirty-two of the field workers informed the Border Patrol officers that they were citizens and nationals of Mexico, and the applicant and one other individual identified themselves as citizens of El Salvador. All of the individuals aboard the bus admitted that they had entered the United States without inspection and that they did not possess any immigration documents authorizing them to enter, reside, or work in the United States. The applicant told the Border Patrol officers that he had entered the United States without inspection approximately three years ago near San Ysidro, California. **The applicant was placed in removal proceedings. On December 16, 2005, an Immigration Judge in Florence, Arizona, ordered the applicant removed to El Salvador. The applicant was subsequently removed to El Salvador on January 9, 2006.**

It is further noted that the applicant indicated on his initial Form I-821 that he entered the United States on February 13, 2001. The applicant indicated on the current Form I-821 that he entered the United States on January 1, 2001. However, he told the Border Patrol officers when he was apprehended on December 6,

2005, that he entered the United States without inspection approximately three years ago, sometime in 2002. These discrepancies in the applicant's claimed date of entry into the United States raise serious questions regarding the applicant's claim to have resided in the United States since February 13, 2001, and to have been continuously physically present in the United States since March 9, 2001. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988). The applicant has failed to establish his qualifying continuous residence and continuous physical presence in the United States during 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.

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.