



U.S. Citizenship
and Immigration
Services

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JAN 25 2007

FILE:

[REDACTED]
[WAC 05 207 86058]

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:

[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. Wieman for
Robert P. Wieman, 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 01 186 50237. The record revealed that the applicant was arrested in San Bernardino, California on August 24, 2003, and charged with driving under the influence of alcohol with prior DUI conviction(s) in violation of section 23152(a) VC, a misdemeanor, and one count of driving under the influence of alcohol with a blood alcohol content of 0.08% or higher in violation of section 23152(b) VC, a misdemeanor. On October 29, 2003, the applicant pled guilty to both charges in the Superior Court of California, County of San Bernardino. (Agency Case Number: [REDACTED])

The director denied that application on March 9, 2004, because he found the applicant had been convicted of two misdemeanors. The Director (now Chief) of the AAO dismissed the applicant's appeal from the denial decision on May 3, 2005, finding that the applicant had not overcome the basis for denial of the application.

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, the applicant is ineligible for TPS because of his record of two misdemeanor convictions. 8 C.F.R. § 244.4(a). Therefore, the application must also 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.