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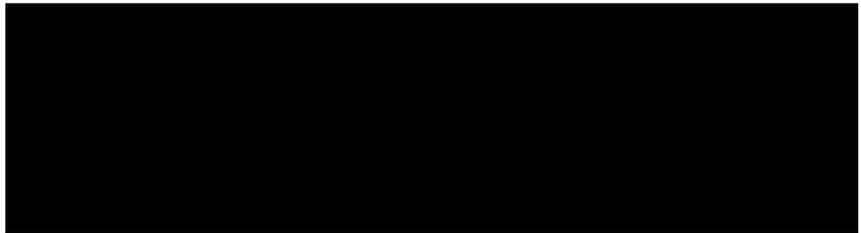


FILE: [REDACTED]
[WAC 05 146 71162]

Office: CALIFORNIA SERVICE CENTER

Date: JUL 16 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 for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial TPS application was denied by the Director, California Service Center. A subsequent application for re-registration 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 CIS receipt number WAC 02 213 53958. The director denied that application on September 18, 2003, because the applicant failed to submit final court dispositions as requested. The applicant filed an appeal on November 19, 2003. The director treated the appeal as a motion because it had been untimely filed and rejected the appeal/motion on May 27, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 23, 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.

It is noted that the record reveals the following offenses:

- The applicant was arrested on June 1, 2002, in Salinas, California, and charged with:
 - (1) petty theft, a misdemeanor; and,
 - (2) "use of false citizen/etc.doc." The classification of this second offense is not contained in the record.

The director requested the applicant submit a final court disposition stemming from his June 1, 2002 arrest. The applicant stated that he had never been arrested and submitted police clearances in response to the director's request.

Contrary to the applicant's claim, the record of proceeding shows that the applicant stated at the time of his arrest in June of 2002 that his name was [REDACTED] and that his date of birth was March 4, 1979. There has been no evidence presented by the applicant to demonstrate that he requested final court dispositions using the name and date of birth he used at the time of his arrest, or for that matter, if he ever went to the correct county for the police clearances. The applicant was arrested in Salinas, California, which is located in Monterey County, but went to Fresno County, California, to request and obtain the police

clearances. The applicant is responsible for providing all evidence revealing the final court dispositions of his arrests as detailed above. The applicant has failed to provide the final court dispositions stemming from his June 1, 2002 arrest. The applicant is ineligible for temporary protected status because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a).

Beyond the decision of the director, the applicant has not submitted any evidence to establish his qualifying continuous residence since February 13, 2001, and his continuous physical presence since March 9, 2001, in the United States. The applicant claims that he has been present in the United States since May 30, 2000. However, the Record of Deportable/Inadmissible Alien, Form I-213, contained in the record of proceeding shows that the applicant was apprehended by United States Border Patrol officers on February 13, 2002, at Yuma, Arizona, after having illegally entered into the country. The applicant stated that he arrived in the United States on or about May 30, 2001. The applicant further stated that he had left his home in El Salvador on May 21, 2001; that he entered into Guatemala illegally; and that he traveled through Guatemala by bus for 2 days before arriving at the Mexican border. The applicant continued by stating that he traveled another 7 days to the border town of San Luis, RC, Sonora, Mexico, and shortly thereafter, entered into the United States approximately 10 miles east of San Luis, Arizona, where he had been working in the fields picking crops. The applicant also indicated on his Form I-271, Information for Travel Document for Passport, item 15, that he had entered into the United States on May 30, 2001.

It is noted that the record of proceeding contains a photocopy of the applicant's B1/B2 non-immigrant visa issued to him in El Salvador on April 6, 2001. The record also shows that the applicant entered the United States on April 14, 2001, as a B-2 visitor, at Los Angeles International Airport, California, with admission until November 10, 2001. The record further shows that the applicant's passport is stamped to reflect that he re-entered El Salvador on May 11, 2001. This also precludes a favorable finding as to his eligibility for TPS.

It is further noted that the applicant signed a Motion for Change of Venue submitted by counsel on April 3, 2002. In that motion, the applicant states that he "admits" the allegations contained in the Notice to Appear (NTA), and that he "concedes" the charges in the NTA. In the NTA, Form I-862, it is stated that the applicant is an alien in the United States who has not been admitted or paroled, that he is a native and citizen of El Salvador, and that he arrived in the United States at or near San Luis, Arizona, on or about May 30, 2001.

In addition, the applicant was again apprehended and arrested at or near San Clemente, California, on or about December 22, 2005, and charged with "entry of alien at improper time or place . . . misrep/concealment of facts," but that criminal prosecution for the arrest was declined.

Finally, it is noted that removal proceedings were administratively closed on December 18, 2002, but that these proceedings were subsequently superseded by the new apprehension and arrest in 2005. The applicant continues to be ineligible for TPS.

The applicant has admitted to and the record of proceeding demonstrates that he entered the United States subsequent to the registration periods and therefore, would never be able to establish as required by statute his continuous residence and continuous physical presence in the United States since February 13, 2001, and March 9, 2001, respectively. 8 C.F.R. §§ 244.2(b) and (c).

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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

ORDER: The appeal is dismissed.