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U.S. Citizenship
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: MAR 02 2007
[REDACTED] consolidated herein]
[WAC 05 111 81811]

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.


for 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 April 2, 2001, under Citizenship and Immigration Services (CIS) receipt number EAC 01 164 55971. The Director, Vermont Service Center, denied that application on August 9, 2002, because the applicant had been convicted of two misdemeanors, namely: (1) driving while intoxicated on February 9, 1999, in Dallas County, Texas; and (2) evading arrest on November 30, 1999, in Dallas County, Texas. The applicant appealed the director's decision to the AAO on September 9, 2002. The AAO affirmed the director's decision and dismissed the appeal on March 7, 2005.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 19, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on September 27, 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 submits a statement from his wife (Karla Cardenas) attesting to the applicant's good moral character. The applicant also submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States.

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.

The applicant was convicted of two misdemeanors and his convictions continue to preclude a favorable finding of eligibility for TPS. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). There is no waiver available for this ground of ineligibility.

The record shows that the applicant filed Form I-589, Application for Asylum and for Withholding of Deportation. On September 25, 2000, the applicant was advised to appear at the Immigration Court in Dallas, Texas, on October 17, 2000, for a hearing regarding his asylum application. In removal proceedings held on October 17, 2000, the applicant failed to appear; therefore, the Immigration Judge determined that the applicant had abandoned any and all claims for relief from removal and ordered the applicant removed to El Salvador *in absentia*. A Form I-205, Warrant of Removal/Deportation, was issued on November 13, 2000.

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.