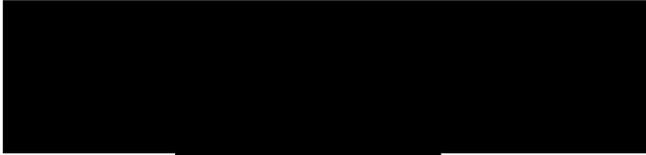




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy**



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FILE:



Office: California Service Center

Date: MAR 05 2007

[WAC 05 215 75992]

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.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

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 stated to be 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 an initial TPS application on April 13, 2001, under CIS receipt number WAC 01 184 53832. The director denied that application on March 1, 2004, because the applicant failed to appear for fingerprinting, as requested by the director on November 14, 2002. The director, therefore, considered that application abandoned and denied the application. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not indicate that the applicant filed a motion to reopen or reconsider.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 3, 2005, under CIS receipt number WAC 05 215 75992, and indicated that he was re-registering for TPS.

The director denied the re-registration application, on July 22, 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 states that he entered the United States in March 1998, and that he registered for TPS before the deadline. With the appeal, in an attempt to establish his continuous residence in the United States and his continuous physical presence, the applicant submitted various documents, including a birth certificate, with an English translation, a California Driver License, and his 2004 and 2003 U.S. Individual Income Tax Returns, Form 1040.

However, 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.

Beyond the decision of the director, the applicant has not submitted evidence of his nationality and identity. The record contains an El Salvador birth certificate, purportedly the applicant's, and an English translation of a birth certificate; however he has not submitted a national identity document from his country bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1). Therefore, the application must also be denied for these reasons.

It is noted that the applicant's Federal Bureau of Investigation (FBI) results report, completed in connection with his subsequent TPS re-registration application, reflects that the applicant was arrested on August 26, 2001, by the Sheriff's Office, Norwalk, California, and charged with 1 count of vehicle theft, and 1 count of possession of burglary tools; and was arrested on March 31, 2004, by the Police Department Culver City, California, and charged with 1 count of "PTHFT W/PR JAIL, SPEC OFNS". The final court dispositions of these arrests are not in the record of proceeding. CIS must address these arrests and any convictions in any future proceedings.

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.