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FILE:

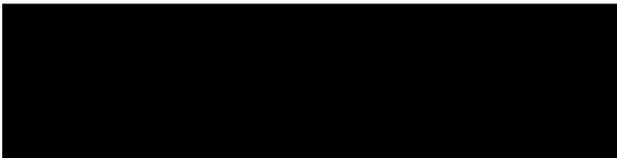


OFFICE: CALIFORNIA SERVICE CENTER DATE: MAR 26 2007

[WAC 05 224 83731]

IN RE:

Applicant:



APPLICATION:

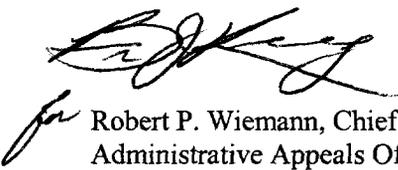
Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

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.


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 March 26, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 172 50138. The director denied that application on January 7, 2004, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting on November 12, 2003.¹ The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on August 16, 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 indicates that he needs additional time to submit a brief and/or evidence because he has requested a copy of his file under the Freedom of Information Act (FOIA). It has been well over one year, however, and the file contains no further response from the applicant. Therefore, the record shall be considered complete.

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 indicates that the applicant subsequently was fingerprinted and the Federal Bureau of Investigation fingerprint results reports dated June 9, 2005 and April 26, 2006, did not reflect a criminal record that would bar the applicant from receiving TPS. However, the record of proceeding contains insufficient evidence to establish that the applicant has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also be denied for this reason.

Additionally, CIS records, and file number [REDACTED] indicate that on January 27, 1998, while seeking to enter the United States at the Los Angeles International Airport, the applicant presented an El Salvadoran passport belonging to another person into which his photograph had been substituted. In a sworn statement signed by the applicant on January 27, 1998, he admitted that he knew he was presenting a photo-altered passport. The applicant was found inadmissible to the United States pursuant to section 212(a)(6)(i) of the Act, as an alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure

¹ It is also noted that the applicant was requested on September 16, 2002, to appear for fingerprinting at the INS Bellflower office on October 15, 2002. There is no evidence in the record that the applicant appeared as required.

or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act, and he was expeditiously removed from the United States to El Salvador.

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.