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U.S. Citizenship  
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Services

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FILE:



[WAC 05 335 70105]

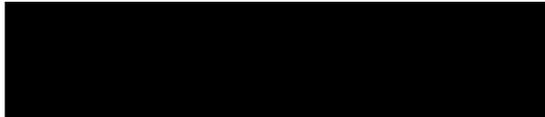
OFFICE: California Service Center

DATE:

MAR 29 2007

IN RE:

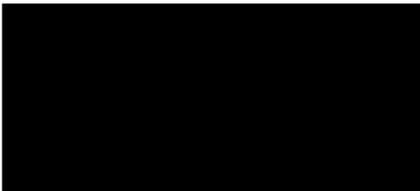
Applicant:



APPLICATION:

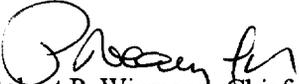
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant claims 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 Form I-821, Application for Temporary Protected Status, in September 2002 under Citizenship and Immigration Services (CIS) receipt number EAC 03 016 50885. On August 20, 2003, the director issued a notice of intent to deny, which was sent to the address indicated on the Form I-821, requesting the applicant to submit certain evidence within 30 days. After the applicant failed to respond to the notice within the requisite 30 days, the director automatically terminated the TPS application due to abandonment on October 16, 2003, pursuant to Operation Instruction 103.2(o).

The AAO notes that the initial Form I-821 was filed on September 11, 2002 (the date of its receipt stamp at the Vermont Service Center). That was two days after the expiration of the initial registration period for TPS applicants from El Salvador, which ran from March 9, 2001 to September 9, 2002. There is no evidence in the record to suggest that the applicant was eligible for late registration for TPS, in accordance with 8 C.F.R. § 244.2(f)(2), upon the expiration of the initial registration period. It would appear, therefore, that the initial application was also deniable on the ground of late filing.

The applicant filed the current TPS application on August 18, 2005, and indicated that she was applying for re-registration or renewal of TPS.

The director denied the re-registration application on May 12, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register 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. See 8 C.F.R. § 244.17.

On appeal counsel asserts that the applicant did not receive notice of the denial of her initial TPS application until May 2006, when her re-registration application was denied. According to counsel, the applicant was granted TPS in 2002 and filed re-registration applications each year thereafter. The applicant was not granted TPS in 2002, as counsel claims, but simply filed her application that year. CIS records show that the notice of intent to deny issued to the applicant on August 20, 2003, was returned as undeliverable on September 3, 2003, though the document was correctly addressed to [REDACTED] in accord with the Form I-821. The director's automatic termination of the TPS application, which followed on October 16, 2003, accorded with applicable operation instructions providing that if a request for evidence "mailed to the applicant . . . at the address last furnished by him, is returned to the Service by the postal authorities as undeliverable, the application . . . shall be deemed to have been abandoned and action thereon shall be terminated automatically if there is no other apparent means of communicating with him." Thus, the TPS application filed by the applicant in 2002 was properly denied on the ground of abandonment in 2003. The only applications approved by the service center were the applicant's first two Applications for Employment Authorization (Form I-765), filed in 2002 and 2003.

Since the applicant has not previously been granted TPS, she is not eligible to re-register for TPS. Accordingly, the director's decision to deny the application will be affirmed.

There is no indication that the applicant is 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).

An alien applying for Temporary Protected Status, or TPS, 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.