



U.S. Citizenship
and Immigration
Services

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FILE:

[WAC 05 288 70584]

[WAC 07 217 50104, motion]

Office: CALIFORNIA SERVICE CENTER

Date:

JAN 14 2008

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".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The re-registration application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion to reopen will be dismissed and the previous decision of the AAO will be affirmed.

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 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.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on May 31, 2007. The AAO also noted that the applicant's Federal Bureau of Investigation fingerprint results report indicates that the Broward County, Florida Sheriff's Office arrested the applicant on February 12, 2003 for "Larceny-Grand Theft." The report reflects that the charge was reduced to a misdemeanor and that the applicant was convicted of that charge on April 7, 2003, based on his "nolo contendere" plea. The report also indicates that the Palm Beach County, Florida Sheriff's Office arrested the application on June 10, 2005 for "Driving Under the Influence." The report shows that the applicant was convicted of that charge on November 17, 2005, based on his guilty plea. The final disposition for these arrests are not included in the record, nor were the final court dispositions requested. It is also noted that the applicant has failed to declare on his applications that he has ever been arrested. CIS must address these arrests in any future proceedings.

On motion to reopen, the applicant reasserted his claim of eligibility for TPS but failed to submit any probative evidence in an attempt to establish his qualifying residence in the United States or his eligibility for late registration.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The applicant's motion to reopen consists of a statement from the applicant and submission of non-probative evidence previously provided. As such, the issue on which the underlying decisions were based has not been overcome on motion.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met since the applicant has not provided any new facts or additional evidence to overcome the previous decision of the AAO. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO dated May 31, 2007, is affirmed.