



U.S. Citizenship
and Immigration
Services

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FILE:

[WAC 05 222 88848]

Office: California Service Center

Date: APR 03 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:

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 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 late initial TPS application on August 1, 2003, under CIS receipt number SRC 03 216 53708. The Texas Service Center director denied the application February 2, 2004, for abandonment, as the applicant failed to respond to an October 1, 2003 notice of intent to deny to submit evidence to establish that he was eligible for late initial registration for TPS. 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 reflect that the applicant filed an appeal or a motion to reopen/reconsider that decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 11, 2005, under CIS receipt number WAC 05 222 88848, and indicated that he was re-registering for TPS.

The California Service Center director denied that application on November 3, 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 has been in the United States during the requisite period for TPS, and that he would like the opportunity to be in this country. With the appeal, the applicant submits a photocopy of: his El Salvador passport; a high school identification card; an English translation of his birth certificate; two CIS Fingerprint Notifications, issued in 2005; a CIS receipt notice, dated August 1, 2003; and a reference letter from Leoncio Romero, dated November 28, 2005, stating that the applicant was an active church member from January 2001, until October 2005.

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.

There is no indication that the applicant was 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).

Beyond the decision of the director, it is noted that the applicant has not submitted sufficient evidence to establish his continuous residence in the United States from February 13, 2001 and his continuous physical presence since March 1, 2001, to the date of filing the application for TPS. It is noted that the first passport submitted by the applicant was issued in El Salvador on March 27, 2001; therefore, the applicant could not have met the requisite continuous residence, continuous physical presence, and date of entry. Therefore, the application will also be denied for these reasons.

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.