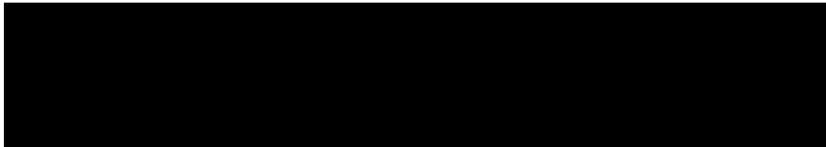




U.S. Citizenship  
and Immigration  
Services

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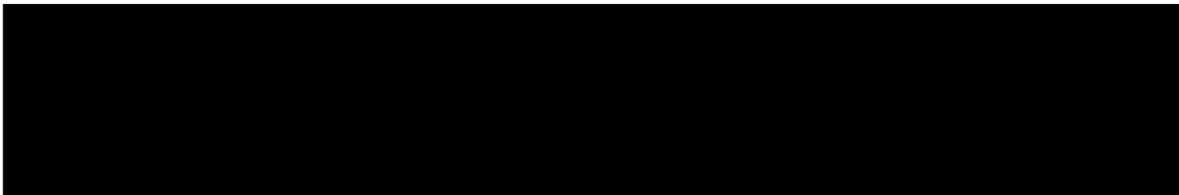
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **JAN 17 2007**  
[WAC 05 221 81815]

IN RE: Applicant: [REDACTED]

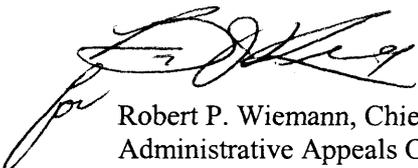
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration  
and Nationality Act, 8 U.S.C. § 1254

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, 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 August 1, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 264 58856. The director denied that application on February 28, 2004, because the applicant had failed to establish: (1) continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application; and (2) identity. The applicant appealed the director's decision to the AAO on March 29, 2004. The AAO reviewed the record of proceeding, including evidence furnished by the applicant with her brief in support of the appeal received on April 27, 2004. The AAO determined that the applicant had provided sufficient proof of identity and nationality; however, the documentation furnished was insufficient to establish 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 AAO dismissed the appeal on December 17, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 9, 2005, and indicated that she 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, counsel asserts that the applicant's TPS denial was issued without a prior Notice of Intent to Deny being sent; therefore, she was not afforded the opportunity to avoid denial of her case.

A review of the record indicates that the applicant furnished with her initial TPS application receipts dated in March, May, June, and July 2002, as evidence of continuous residence and continuous physical presence in the United States during the qualifying period. The director determined that the evidence furnished was insufficient and denied that application on February 28, 2004. Pursuant to 8 C.F.R. § 244.9(a), "applicants shall submit all documentation as required in the instructions or requested by the Service." [Emphasis added] The instructions for completion and filing of Form I-821, Application for Temporary Protected Status, listed examples of documents the applicant would "need to prove residence in the United States," and instructed to submit any relevant documents. There is no requirement that the director must issue a notice of intent to deny based on insufficient evidence to establish residence and physical presence. Furthermore, the applicant had an opportunity to submit additional, sufficient evidence when she filed her appeal on March 29, 2004, and subsequent brief in support of her appeal on April 27, 2004.

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, she 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 director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (2) During any subsequent extension of such designation if at the time of the initial registration period:
  - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
  - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
  - (iii) The applicant is a parolee or has a pending request for reparole; or
  - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the current application with CIS on May 9, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

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.