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U.S. Department of Homeland Security
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N. W.
Washington, DC 20536

m



File:  Office: Texas Service Center Date: **NOV 26 2003**

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 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Cindy N. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action.

The applicant is a native and citizen of El Salvador who indicated on his application that he was admitted into the United States on May 22, 1998. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because the applicant failed to establish he was eligible for late registration.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the current application was received by the Immigration and Naturalization Service, now CIS, on September 19, 2002. However, in response to the Notice of Intent to Deny the applicant submitted a copy of a notice dated August 27, 2002, in which the director indicated that the application package was being returned because it had been filed by the applicant "after the July 2, 2002, deadline." The case is remanded and the director shall ascertain whether the applicant, in fact, attempted to file an application during the initial registration period and was not allowed to.

If the director determines that the applicant did not attempt to file an application during the initial registration period, the issue of the applicant's eligibility for late registration must also be addressed. In a Notice of Intent to Deny dated March 5, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration. If the director concludes that the applicant's eligibility for late registration is still relevant, the director shall reissue the Notice of Intent to Deny and afford the applicant an opportunity to respond before issuing a new decision.

The director may request any evidence deemed necessary to assist him with the determination of the applicant's eligibility for TPS offered to El Salvadorans. As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. 1361.

ORDER: The director's decision is withdrawn. The case is remanded to the director for further action in accordance with the foregoing and for entry of a new decision, which, if adverse to the applicant, is to be certified to the Administrative Appeals Office for review.