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U.S. Citizenship
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Services

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FILE:



[SRC 02 068 53408]
[WAC 05 161 72815]

Office: CALIFORNIA SERVICE CENTER

Date: AUG 21 2006

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 California Service Center. Any further inquiry must be made to that office.

Cindy N. Gomez

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center (TSC). A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the case will be remanded for further consideration and action.

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 under Citizenship and Immigration Services (CIS) receipt number SRC 02 068 53408. The TSC Director denied that application due to abandonment on May 30, 2003, because the applicant failed to respond to a request dated April 12, 2003, for additional evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant did not file an appeal from the denial decision.

Prior to the denial of his initial TPS application, the applicant had filed an application for re-registration or extension of TPS benefits under CIS receipt number LIN 03 256 51105, with a corresponding employment authorization application under LIN 03 045 51210. These applications were received by the Nebraska Service Center (NSC) on October 10, 2002, and indicated that the applicant resided at a new address under the jurisdiction of the NSC. The request for additional evidence and the denial notice, however, were both mailed to the applicant's prior address in Texas, more than six months after the applicant had provided a more recent address. Therefore, the denial due to abandonment was made in error; the decision shall be withdrawn and the initial application shall be considered as still pending.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 10, 2005, and indicated that he was re-registering for TPS.

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.

On appeal, the applicant submits additional evidence, including the Employment Authorization document (EAD) reflecting approval under Category C19, for the application filed with the NSC.

The denial due to abandonment on the initial TPS application was made in error, as the notices were mailed to an incorrect address. Therefore, the director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, that decision will be remanded to the director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to 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 initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.