

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

M1

PUBLIC COPY



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: AUG 21 2006

[WAC 05 210 70353]

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*  
for

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the application will be approved.

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 applicant filed the current Form I-821, Application for Temporary Protected Status, on April 29, 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.

The record reveals that the applicant filed a TPS application during the initial registration period with the Immigration and Naturalization Service (INS), now Citizenship and Immigration services (CIS) under receipt number SRC 01 213 56449. The Texas Service Center (TSC) Director denied that application due to abandonment on April 7, 2004, after determining that the applicant had failed to appear as scheduled for his required fingerprinting appointment. A denial due to abandonment may not be appealed, but an applicant may file a motion to reopen. 8 C.F.R. § 103.2(b)(15). The applicant did not file a motion to reopen the denial decision.

The record reflects that the Fingerprint Notification dated January 9, 2003, was mailed to an incorrect address. The Fingerprint Notification indicates that it was mailed to the applicant's address as provided on his initial May 10, 2001, TPS application and on a subsequent renewal request received on February 1, 2002. However, the applicant had provided a new address on his application for extension of temporary treatment benefits that was stamped as received by the Texas Service Center on September 24, 2002, prior to the issuance of the Fingerprint Notification. It is also noted that on the TSC Director's Notice of Decision to Deny, dated April 7, 2004, the street address was spelled incorrectly.

The record indicates that the denial due to abandonment on the initial TPS application was made in error because the Fingerprint Notification was mailed to the incorrect address. In addition, the record also reveals that the applicant subsequently was fingerprinted and the Federal Bureau of Investigation (FBI) criminal history printouts dated June 3, 2004, and July 13, 2005, reflect that the applicant was not identified as having a criminal or other record as of those dates.

Because the denial due to abandonment was made in error, the decision shall be withdrawn and the initial application shall be considered as still pending. Therefore, the applicant is still eligible to re-register for extension of TPS benefits, and the sole reason for denial stated by the CSC Director has been overcome.

The evidence of record reflects that the applicant has overcome the bases for the denial of his initial TPS application and re-registration application. The applicant has otherwise submitted evidence of his nationality, his continuous residence, and his continuous physical presence in the United States, and has established that he has met the requirements described in 8 C.F.R. §§ 244.2(a), (b) and (c). Therefore, the director's decision will be withdrawn and the application will be approved.

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 met this burden.

**ORDER:** The appeal is sustained and the application is approved.