



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: DEC 27 2006

[WAC 05 208 82681]

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.

for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center. 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, AAO, 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 applicant filed an initial application for TPS during the initial period under receipt number SRC 01 233 65059. The director denied that application on March 5, 2003, after determining that the applicant had abandoned her application by failing to respond to a Notice of Intent to Deny (NOID) requesting evidence that she had met the continuous residence and continuous physical presence requirements for TPS.

The applicant filed the current Form I-821, on April 26, 2000, and indicated that she was re-registering for TPS.

The record reflects the applicant's address on the director's NOID and initial decision dated March 5, 2003 were misaddressed as the street name was misspelled which could have resulted in the applicant not receiving one or both of the notices. Additionally, the applicant had already submitted the type of evidence sought by the director in the NOID, and that evidence, albeit sparse as to continuous residence and continuous physical presence, was already in the record of proceedings. This evidence should have been considered by the TSC Director when the determination was made concerning her initial application.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision.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 is also withdrawn as it is dependent upon the adjudication of the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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.