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FILE: [REDACTED]
[WAC 05 138 70748]

Office: CALIFORNIA SERVICE CENTER

Date: JUN 28 2001

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: 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, (TSC). A subsequent motion to reopen and reconsider was approved by the TSC director contingent "of your fingerprint clearance." An application for re-registration was denied by the Director, California Service Center, (CSC), and is currently before the Administrative Appeals Office, on appeal. 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 under receipt number SRC 01 226 73475.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 15, 2005, and indicated that he was re-registering for TPS.

The record shows the applicant's fingerprinting processing was completed on April 15, 2005. The CSC director denied his application for re-registration on August 16, 2005, finding the applicant had not established prima facie eligibility. The CSC director made no mention in his order about the TSC director's April 28, 2004, contingent approval of the applicant's initial Form I-821, Application for Temporary Protected Status filed on May 25, 2001.

In this case, the director had information in the file indicating the applicant's prima facie eligibility for TPS. Therefore, a denial was not appropriate absent evidence that the applicant had failed his fingerprint clearance.

The CSC director's denial of the re-registration application will be withdrawn. The application will be remanded for a new decision after taking into account the applicant's results of the applicant's fingerprint clearance.

It is noted that the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The CSC director's decision is withdrawn. The re-registration application is remanded for a new determination.