



U.S. Citizenship
and Immigration
Services

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MM

FILE:

[REDACTED]
[WAC 05 190 70652]
[EAC 01 172 51203]

Office: CALIFORNIA SERVICE CENTER

Date: **NOV 27 2006**

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:

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Vermont Service Center (VSC). A subsequent application for re-registration or renewal of temporary treatment benefits was denied by the Director, California Service Center (CSC), 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 claims to be a 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 a first Form I-821, Application for Temporary Protected Status, with the VSC on April 6, 2001, during the initial registration period (EAC 01 172 51203 relates). On January 14, 2004, the director of the VSC denied the application due to abandonment because the applicant failed to appear as scheduled for fingerprinting required in connection with his application. However, the record of proceeding reveals that the request to appear for fingerprinting, and the denial of the application, were mailed to the applicant at a wrong address; therefore, the decision to deny the application was in error.

The VSC director's denial of the initial application will be withdrawn, and the application will be remanded for a new decision. Since the director of the CSC's denial of the application for re-registration or renewal of temporary treatment benefits is dependent upon the adjudication of the initial application, the decision to deny the application for re-registration or renewal of temporary treatment benefits will also be remanded for further adjudication. The director of the CSC 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 application for re-registration or renewal of temporary treatment benefits is remanded for further action consistent with the director's new decision on the initial application.