



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



M

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **OCT 03 2006**

[WAC 05 137 71399]

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.

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, 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 an initial application for TPS on August 8, 2002, under receipt number SRC 02 243 56026. The Texas Service Center director denied the initial application on January 21, 2005, after determining that the applicant failed to submit appear for fingerprinting on October 19, 2004.

However, the record of proceedings reveals that the director's decision was in error. The record reveals that the applicant's initial TPS application was not approved; however, she applied for re-registration on October 9, 2002, July 31, 2003, and February 14, 2005. In the applicant's initial TPS application, filed on August 8, 2002, she provided an address of [REDACTED]. On March 25, 2003, a Notice of Intent to Deny was mailed to [REDACTED] requesting a copy of the applicant's photo identification. In the applicant's re-registration application submitted on July 31, 2003, the applicant provided an address of [REDACTED]. On April 21, 2004, a fingerprint notice was sent to the applicant at [REDACTED]. On October 8, 2004, another fingerprint notice was sent to the applicant; however, the notice was sent to [REDACTED]. The applicant failed to appear for either fingerprinting appointment. On January 21, 2005, the Texas Service Center sent a Notice of Decision to Deny to [REDACTED]. On February 14, 2005, the applicant submitted a re-registration application, providing an address of [REDACTED].

In her appeal, the applicant states that she never received a notice regarding her ineligibility for TPS. The applicant provided a lease agreement from August 8, 2000, demonstrating her continuous residence in the United States since February 13, 2001 and continuous physical presence in the United States since March 9, 2001, a copy of her Salvadoran passport, and a W-2 Wage and Tax Statement from 2003. It is noted that the fingerprint notices were not sent to the applicant's last known address of [REDACTED] which she provided on July 31, 2003. Therefore, the Texas Service Center director's decision on the initial application will be withdrawn and the application will be remanded for a new decision. The California Service Center director's denial of the application for re-registration 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 Texas Service Center 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.