

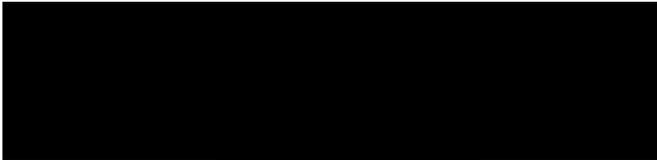
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U.S. Department of Homeland Security
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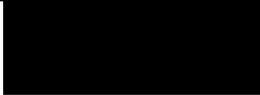
**U.S. Citizenship
and Immigration
Services**

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FILE:



OFFICE: California Service Center

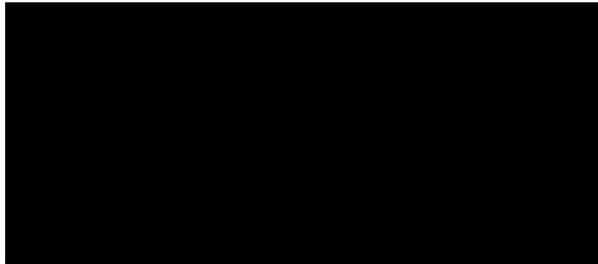
Date:

SEP 08 2006

[WAC 05 221 86364]

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 office that originally decided your case. Any further inquiry must be made to that office.

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

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, California 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 is stated to be 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 on September 9, 2002, under receipt number WAC 03 034 53222. The California Service Center director denied the initial application on August 9, 2004, after determining that the applicant had failed to provide the final court disposition for his arrest.

However, the record of proceedings reveals that the director's decision was in error. The record reveals that on May 26, 2004, the applicant was requested to provide evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2), evidence establishing his continuous physical presence in the United States from March 9, 2001, evidence establishing his continuous residence in the United States from February 13, 2001, and the final court disposition for his arrest. On June 24, 2004, the applicant provided the requested evidence, including the Glendale Police Department arrest record demonstrating that the district attorney rejected the case on May 30, 2000, because there was no proof that the applicant committed a crime. The director denied the application on August 9, 2004, because the applicant failed to provide the final court disposition for his arrest. The applicant filed an appeal of that decision on September 15, 2004; however, the appeal was rejected because it was untimely.

In his appeal, the applicant states he sent all the requested evidence to Citizenship and Immigration Services (CIS). Since the applicant did provide the final court disposition for his arrest, demonstrating the case was dismissed, the director's decision on the initial application will be withdrawn and the application will be remanded for a new decision. The 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 director's decision is withdrawn, and the application is remanded to the California Service Center for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.