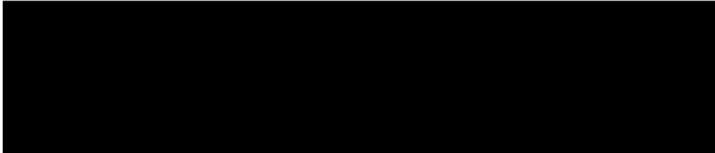




U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

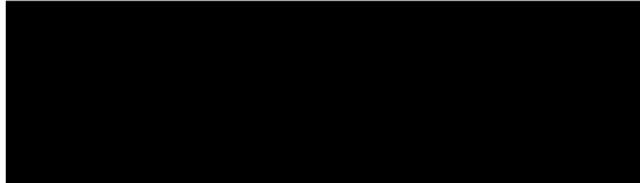
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[WAC 01 175 52642]
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IN RE:

Applicant:

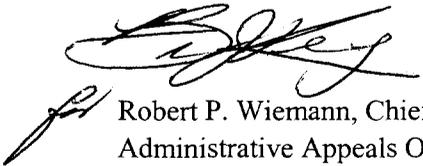


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


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 April 5, 2001, under receipt number WAC 01 173 52642. The director denied the initial application on February 27, 2004, after determining that the applicant had abandoned his application by failing to submit evidence demonstrating nationality and a final court disposition from his arrest.

However, the record of proceedings reveals that the director's decision was in error. The record reveals that on February 27, 2004, the applicant provided his cedula and the final court disposition from his December 21, 2002 arrest.

In his appeal, the applicant states he never received notice of the denial of his TPS application. It is noted that the court disposition establishes that on December 23, 2002, the applicant was convicted of having 0.08 percent or more, by weight, of alcohol in his blood, while driving a vehicle, in violation California Vehicle Code § 23152(b), a misdemeanor. The other two charges were dismissed in furtherance of justice.

The applicant submitted the requested evidence; therefore, 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 for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.