



U.S. Citizenship
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Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: APR 02 2007
[WAC 05 216 76318]
[SRC 01 151 65895]

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.

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, AAO, and 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 which was denied on September 2, 2004, because the applicant had abandoned his application by failing to respond to an appointment notice instructing him to report to the Application Support Center at [REDACTED] in order to have his fingerprints taken. The director noted that the notice mailed to the applicant's address of record was returned undeliverable by the United States Postal Service on or about June 14, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 4, 2005, and indicated that he was re-registering for TPS.

The record does not contain a copy of the appointment notice cited by the director in her order. It does contain a Form I-797C, Fingerprint Notification, dated November 19, 2002, that was sent to the applicant at an address on [REDACTED] which was not his address of record at that time. It also contains a second Form I-797C, that was sent to the applicant on March 5, 2004, instructing him to report to the Atlanta, Georgia Application Support Center on April 23, 2004. However, that notice was slightly misaddressed to "APT 6 6" and not to the applicant's unit which was APT. 6-6 at that time. The March 5, 2004 notice was returned to Citizenship and Immigration Services as undeliverable on March 9, 2004. It was resent, again using the APT 6 6 address and again returned as undeliverable on April 13, 2004. It is noted that the director's decision dated September 2, 2004 addressed to the applicant using APT 6-6 was not returned to CIS as undeliverable by the Postal Service.

The record reflects that his fingerprints were taken and sent to the U. S. Federal Bureau of Investigation by U. S. Citizenship and Immigration Services on June 4, 2005 and on April 26, 2006.

The Federal Bureau of Investigation fingerprint results report shows that on December 24, 2004, the applicant was arrested by the Police Department of Marietta, Georgia for "DUTY TO STOP AT SCENE OF ACCIDENT-HIT & RUN, LEAVE SCENE OF ACCIDENT" and for "DUI-ALCOHOL - /MISD/-." However, the final court disposition(s) of these arrests are not included in the record of proceeding.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, the current decision will also be remanded to the director for further review pursuant to the new decision on the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.