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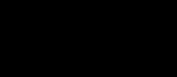
U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: APR 03 2007

[WAC 05 218 71909]

[SRC 01 264 54277]

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.

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, 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 claims 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 which was denied by the director on November 23, 2004, after determining that the applicant had abandoned his application by failing to respond to a request to appear for fingerprinting sent "On or about July 10, 2004."

The applicant filed the current application, on May 6, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

The record reflects that the director sent the applicant two fingerprint notifications on April 20, 2004 and on July 8, 2004. Both of these notifications were misaddressed as they were sent to apartment # [REDACTED] and not apartment # [REDACTED]. A subsequent notification was sent to the applicant at his correct address, but it was dated October 7, 2004, for an appointment on July 23, 2004, thereby predating the notice and making the applicant's compliance impossible. However, the record reflects that his fingerprints were taken and sent to the Federal Bureau of Investigation, (FBI), by Citizenship and Immigration Services on June 15, 2006.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document to establish his nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1). Additionally, the applicant has provided insufficient evidence to establish his continuous residence and continuous physical presence during the required time periods. 8 C.F.R. § 244.2 (b) and (c).

The applicant's FBI fingerprint results report shows that on July 22, 2005, he was arrested by the Sheriff's Office in Houston, Texas for "THEFT >=\$50<\$500." Additionally, the applicant submitted a City of Houston Municipal Courts receipt dated December 3, 2003 indicating that he paid \$227 for "NO LIAB INSURANCE 9/1/95" under the name [REDACTED]. However, the final court dispositions 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.

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.