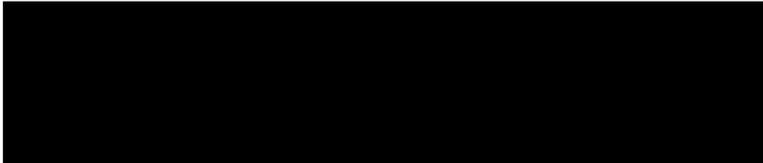




U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **APR 23 2007**
[SRC 01 208 54454]
[WAC 05 244 70552]

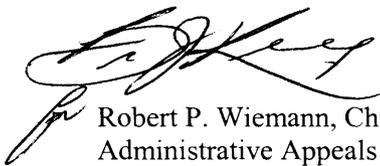
IN RE: Applicant: [REDACTED]

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 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, Texas Service Center (TSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC), and is currently before the Administrative Appeals Office 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 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 under receipt number SRC 01 208 54454. The TSC director, denied the initial application on November 5, 2004, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting on May 21, 2001. However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that on August 12, 2001, a request for evidence (RFE) was issued by the TSC director on August 12, 2004, requesting that the applicant submit: (1) evidence to show that he has continuously resided in the United States since February 13, 2001, and has been continuously physically present from, March 9, 2001, to the date of filing the application; and (2) a photocopy of an official photo identification. It is noted that the request for evidence was mailed to [REDACTED] at [REDACTED]. There is no evidence that [REDACTED] is the applicant's representative; the G-28, Notice of Entry of Appearance as Attorney or Representative, indicates that [REDACTED] was representing Ranger Insurance Company, the obligor of a bond posted on behalf of the applicant. The record does not contain evidence that the applicant responded to the RFE. On November 5, 2004, the TSC director denied the TPS application based on abandonment for failure of the applicant to appear for fingerprinting on May 21, 2001. The TSC Director did not address the request for evidence issued on August 12, 2004. It is further noted that the record of proceeding contains no evidence that the applicant was requested to appear for fingerprinting on May 21, 2001. The record contains a letter addressed to the applicant from the TSC, dated June 27, 2001, acknowledging receipt of a \$25 fingerprint fee, and advising the applicant that he will be notified in writing of the date, time, and location to report and have his fingerprints completed.

The TSC director's denial of the initial application will be withdrawn, and the application will be remanded for a new decision. The CSC 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, 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.