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U.S. Citizenship
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APR 25 2007

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:
[WAC 05 138 70942-as it relates to SRC 01 231 64044]

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:

[REDACTED]

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.

Cindy M. Gomez for
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, 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 a 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 record reveals that the applicant filed a TPS application during the initial registration period on June 12, 2001, under receipt number SRC 01 231 64044. The Director, TSC, denied that application for abandonment on August 4, 2003, after determining that the applicant failed to appear for fingerprinting. However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that a Federal Bureau of Investigation (FBI) fingerprint results report was processed on September 10, 2001, in response to the request from Citizenship and Immigration Services (CIS) issued in 2001; resulting in no derogatory information.¹ Therefore, the application was not abandoned.

The applicant has overcome the sole reason for the director's denial. However, the application cannot be approved because the applicant has failed to provide sufficient evidence to meet the continuous residence and continuous physical presence criteria described in 8 C.F.R. § 244.2(b) and (c). Therefore, the director's denial of the initial application will be withdrawn, and the application will be remanded for a new decision.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 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.

¹ Additional FBI fingerprint results reports were also completed on March 25, 2005 and April 28, 2006, both with no derogatory information.