



U.S. Citizenship
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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE: **APR 27 2007**

[EAC 03 018 52877]

IN RE:

Applicant:



APPLICATION:

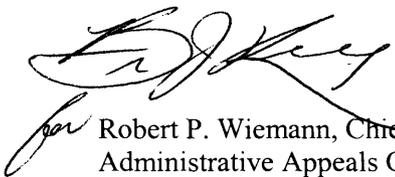
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further 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 director denied the application because the applicant had failed to establish that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant requests reconsideration because he did submit evidence to prove that he is eligible for TPS. He submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States.

A review of the record of proceeding indicates that the VSC director originally denied the initial application on March 3, 2004, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting on June 20, 2003. The applicant responded on March 22, 2004, and submitted evidence that he did appear for fingerprinting on that date. The director reopened the case and issued a Notice of Intent to Deny (NOID) dated November 25, 2005, requesting that the applicant submit evidence to establish continuous residence and continuous physical presence during the requisite period. The NOID was mailed to the applicant's previous address. The case was reopened and another NOID was issued on April 10, 2006. The applicant responded to the NOID and furnished additional documentation. The VSC director reviewed the evidence furnished and concluded that none of the documentation addressed the relevant timeframe as they were dated only from February 2005 to March 2006; therefore, the director denied the application on July 26, 2006.

The record, however, indicates that the applicant filed the initial TPS application on September 11, 2002, after the initial registration period for El Salvadorans (from March 9, 2001 to September 9, 2002) had closed. This fact was not addressed by the director in his decision.

There is no evidence in the record that the applicant was requested to submit evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

Therefore, the case will be remanded in order that the applicant be given the opportunity to submit evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). 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 case is remanded for appropriate action consistent with the above discussion and entry of a new decision.