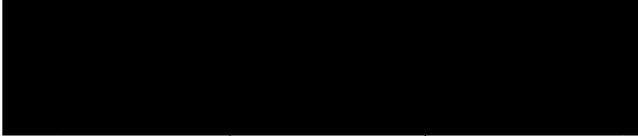




U.S. Citizenship
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: APR 27 2007

[SRC 01 178 55950]

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:



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 approved by the Director, Texas Service Center on December 17, 2003. After review, his TPS was withdrawn by the Director, California Service Center, (CSC). The case is now on appeal before the Chief, Administrative Appeals Office, and it will be remanded for further consideration and action.

The applicant claims to be a native and citizen of El Salvador who was granted TPS on December 17, 2003. The director subsequently withdrew the applicant's status on August 1, 2006, when it was determined that the applicant had failed to respond to a Notice of Intent to Withdraw, (NIW), requesting that he submit the final court disposition for this May 8, 2004 arrest by the San Antonio, Texas, Police Department for aggravated assault with a dangerous weapon.

The record shows that the applicant responded to the CSC Director's NIW prior to the director's August 1, 2006 determination and that he provided a final court disposition from a Magistrate of the Family Justice & Victim Protection Division of Bexter County, Texas, reflecting that his aggravated assault with a deadly weapon charge stemming from his May 8, 2004 arrest was dismissed on September 3, 2004.

The director's denial of the initial application will be withdrawn and the application will be remanded for a new decision. The re-registration decision shall also be reviewed by the director pursuant to the new decision on the initial application.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that he is a national 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).

In these proceedings the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: 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.