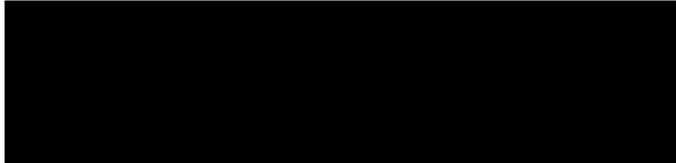




U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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FILE:



Office: California Service Center

Date:

**AUG 20 2007**

[WAC 05 215 71618  
as it relates to SRC 01 215 54269]

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 office California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's temporary protected status 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, 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 an initial TPS application on May 22, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 01 215 54269. The director denied that application for abandonment, on March 12, 2003, because the applicant failed to respond to a May 8, 2003 notice of intent to deny. The director stated that the notice of intent to deny was mailed to the applicant's last known address and was returned as undeliverable. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 3, 2005, under CIS receipt number WAC 05 215 71618, and indicated that he was re-registering for TPS. The director denied this application on August 16, 2005, because the applicant's initial TPS application had been denied.

The AAO notes that the record contains a notice of intent to deny, dated May 8, 2003, which does not contain the applicant's address. In addition, the record of proceeding indicates that the director's denial notice was returned as undeliverable. Without evidence that the applicant received these notices, there is no basis to determine whether the applicant failed to comply with the director's instructions in the notice of intent to deny, and the appeal instructions.

The director's denial of the initial application will be withdrawn; the application will be remanded, and the director shall re-issue a request for evidence to afford the applicant an opportunity to submit the evidence to establish his eligibility for TPS. 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 El 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.