



U.S. Citizenship
and Immigration
Services

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[REDACTED]

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[LIN 02 239 50488]
[WAC 05 198 75336]

Date: FEB 02 2007

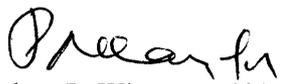
IN RE: Applicant: [REDACTED]

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, Nebraska Service Center. The Director subsequently dismissed the applicant's motion to reopen the case. The current application for re-registration was denied by the Director, California Service Center, and is now 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 applicant filed an initial application for TPS under receipt number LIN 02 239 50488. On September 5, 2002, the applicant was requested to provide an official photo identification document and evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The notice was mailed to the applicant's address of record, but the record does not contain a response from the applicant. The Director of the Nebraska Service Center denied the initial application on February 4, 2003, after determining that the applicant had abandoned his application by failing to respond to the request for additional evidence.

On March 5, 2003, the applicant filed a motion to reopen his case. On motion, the applicant stated that the director failed to specify the reason for the denial of his application in the denial decision. On April 15, 2003, the director dismissed the motion finding that it did not meet the requirements for a motion to reopen a case denied due to abandonment. However, the record of proceedings reveals that the director's initial denial decision was in error. Specifically, the record reveals that the director's decision does not clearly indicate the specific basis for the denial. The denial decision merely stated that the applicant had failed to respond to a request for additional evidence within the specified period.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 16, 2005, and indicated that he was re-registering for TPS. The Director of the California Service Center denied the application on August 16, 2005, because the applicant's initial TPS application had been denied and he was not eligible for re-registration.

The denial of the initial application will be withdrawn; 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.

It is noted that the record of proceedings, as it is presently constituted, does not contain sufficient evidence to establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

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.