



U.S. Citizenship
and Immigration
Services

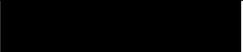
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FILE:



Office: California Service Center

Date: FEB 08 2007

[WAC 05 216 85753 AS IT RELATES TO SRC 01 233 69059]

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 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, 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 claims to be 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 SRC 01 233 69059. The director denied the initial application on March 23, 2004, after determining that the applicant failed to appear for his fingerprinting appointment scheduled on March 26, 2004 and, therefore, had abandoned his application.

The record of proceedings reveals that the director's decision was in error because the date of the decision, March 23, 2004, precedes the date of the fingerprint appointment on March 26, 2004, that the director claims he failed to attend. Therefore, there is insufficient evidence that the applicant had indeed abandoned his TPS application. Further, the applicant appeared for his fingerprinting appointments on December 28, 2001 and June 9, 2005 thereby indicating that he does not intend to abandon his TPS application.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 4, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

The director's 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 dependant 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.