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U.S. Citizenship
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FILE:

[REDACTED]
[WAC 01 200 51442]
[WAC 05 221 76645]

OFFICE: California Service Center

DATE:

FEB 15 2007

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applications were denied by the Director, California Service Center. They are now on appeal before the Administrative Appeals Office (AAO). The matter will be remanded to the director for further action on both applications.

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 record shows that the applicant filed an initial Form I-821, Application for Temporary Protected Status [WAC 01 200 51442] on May 8, 2001. The application was denied by the director on May 9, 2006, on the ground that the applicant had failed to establish his eligibility for TPS. In particular, the applicant had submitted no evidence addressing his inadmissibility due to a prior deportation order for fraud/misrepresentation under section 212(a)(6)(c) of the Act, and he had not filed an Application for Waiver of Grounds of Excludability (Form I-601).

In his appeal, filed on June 9, 2006, the applicant asserts that he submitted a Form I-601 and that a copy was enclosed. The Form I-601 provided with the appeal is dated June 8, 2006, and evidently was not previously submitted. Moreover, although it was initially sent to the service center with the appeal, the Form I-601 bears no stamp or other evidence of having been officially received and reviewed by the service center. Nor is there any indication whether the requisite fee was submitted with the form.

Therefore, the case will be remanded for the director to consider the applicant's Form I-601, Application for Waiver of Grounds of Excludability, and determine whether a change is warranted in the decision rendered on the applicant's initial TPS application.

The applicant filed the current Form I-821, Application for Temporary Protected Status [WAC 05 221 76645], on March 7, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on May 9, 2006, on the ground that 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. *See* 8 C.F.R. § 244.17.

Since the decision on the re-registration application hinges on the disposition of the initial application, which is unclear until the matter of the Form I-601 is resolved, the case must also be remanded for the director to determine whether a change is warranted in the decision rendered on the applicant's re-registration application.

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 to the director for further action consistent with the above and, in the director's discretion, the entry of new decisions on the initial application and on the re-registration application.