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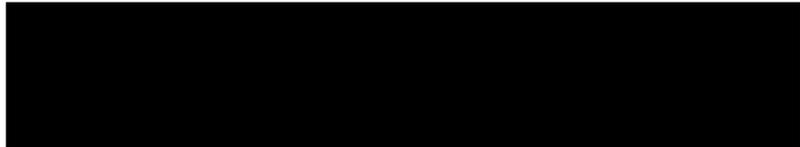
Office: CALIFORNIA SERVICE CENTER

Date: FEB 28 2007

[WAC 05 226 71022 as it relates to SRC 01 140 54513]

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

*Cindy M. Gomez for*  
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, AAO, and the case will be remanded for further consideration and action.

The applicant is stated to be a native and 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 on March 31, 2001, which was denied by the director on January 16, 2003, because the applicant had abandoned his application by failing to appear for fingerprinting.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 14, 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.

As stated above, the director denied the initial application after determining that the applicant had abandoned his application by failing to respond to a request to appear for fingerprinting. However, the Fingerprint Notification sent to the applicant was dated August 16, 2004, for an appointment on May 21, 2004, thereby predating the notice, and making the applicant's compliance impossible. The record reflects that the applicant's fingerprints were taken and sent to the Federal Bureau of Investigation, (FBI), by Citizenship and Immigration Services on August 3, 2005 and on June 19, 2006.

The applicant's Federal Bureau of Investigation (FBI) fingerprint results report shows that on January 5, 2006, the applicant was arrested in Houston, Texas, for "DRIVING WITH LICENSE INVALID." However, the final court disposition of this arrest is not included in the record of proceeding.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that he is a national or citizen 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 addition, the applicant's identity is in question based upon conflicting evidence in the record. For example, the applicant submitted pay slips for himself showing that he worked for a company named Fireproof Contractors, Inc., [city and state not identified] dating back to 1999. The earliest corporate pay slips show him as being employee number [REDACTED] with Social Security number [REDACTED] while later corporate pay slips indicate that he was employee number [REDACTED] with Social Security number [REDACTED]. He also submits a Fireproof Contractors, Inc., pay slip showing that in November, 1999, he worked for the company under the name [REDACTED] as employee number [REDACTED] under Social Security number [REDACTED]. Additionally, the applicant's FBI fingerprint results report shows that when he was arrested on January 1, 2006, the applicant claimed that he was born in Mexico. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The director's denial of the initial application for abandonment was made in error; therefore, the director's denial will be withdrawn and the application will be remanded for a new decision. The director's denial of the application for re-registration is also withdrawn as it is dependent upon the adjudication of the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.