



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

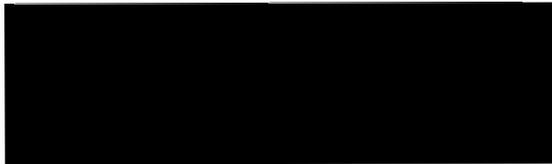
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



ML

FILE: [WAC 05 225 86964] OFFICE: CALIFORNIA SERVICE CENTER Date: **JAN 08 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: 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.

Cindy N. Gomez
Robert P. Wiemann, Chief *for*
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, California 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 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 27, 2001, under receipt number WAC 01 172 50461. The director denied the initial application on February 26, 2004, after determining that the applicant had abandoned his application by failing to respond to a request for evidence. The record does not reflect that the applicant appealed the director's decision. However, on April 21, 2004, the applicant provided some of the requested evidence.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 13, 2005. The director denied the application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

However, the record of proceedings reveals that the director's decision was in error. The record reveals that the applicant filed a late **initial** application on May 13, 2005, based on his wife being a TPS registrant. The applicant was married to [REDACTED] on March 11, 1988. Ms. [REDACTED] is currently a TPS registrant. Therefore, the applicant is eligible for late registration.

However, the applicant's Federal Bureau of Investigation (FBI) results show that the applicant was arrested on May 3, 1992, in Santa Monica, California, for violation of an emergency curfew; on July 20, 2000, in Norwalk, California, for petty theft; and on June 2, 2003, in South Pasadena, California, for driving while under the influence of alcohol and/or drugs. On April 21, 2004, the applicant provided a copy of the final court disposition for the July 20, 2000 arrest, but he failed to provide court dispositions for the May 3, 1992 and June 2, 2003 arrests. Since the actual court disposition for these offenses were not provided, the outcome of these charges is unknown. It is also noted that the applicant did provide a final court disposition for a 1995 arrest in which he was convicted of "theft of property," a misdemeanor. Citizenship and Immigration Services (CIS) must address these arrests and any other convictions in any future proceedings. Therefore, the application will be remanded. 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 to the director.