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U.S. Citizenship
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JAN 19 2007

FILE:

[WAC 05 151 73606]

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Applicant:

APPLICATION:

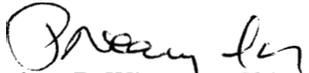
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The matter 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 his initial TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 02 217 52971. The director denied that application on May 14, 2004, after determining that the applicant had abandoned his application by failing to appear for his fingerprint appointment or request another opportunity to be fingerprinted. The applicant filed a motion to reopen the case on October 26, 2005, under receipt number WAC 06 022 50953. Although CIS computer records indicate that the director reopened the denial of the initial application on November 23, 2005, no final decision on the applicant's motion to reopen is contained in the record of proceedings.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 28, 2005, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits.

The director denied the application on May 31, 2006, because the applicant's initial TPS application had been denied on May 14, 2004, and the applicant was not eligible to apply for re-registration or renewal of his temporary treatment benefits. Since no final decision has been issued on the applicant's motion to reopen his initial TPS application, the director incorrectly denied the re-registration application on May 31, 2006.

The director's denial of the current re-registration application is dependent upon the adjudication of the initial application. Since the applicant's motion to reopen his initial TPS application is still pending, the case is remanded for adjudication of the motion to reopen and issuance of a new decision on the re-registration application.

It is noted that the applicant's 2006 Federal Bureau of Investigation (FBI) fingerprint results report revealed that the applicant was arrested in Los Angeles, California, on August 4, 1999, and charged with "SLS of CD" in violation of section 653h(a) PC, a misdemeanor. The director shall provide the applicant with an opportunity to provide the final court disposition of this arrest. The director may request any other 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 re-registration application is remanded for further action consistent with the director's new decision on the initial application.