U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

U.S. Citizenship
and Immigration
Services

[redacted]

M1

JAN 19 2007

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:
[SRC 02 273 55167]
[WAC 05 225 77842]

IN RE: Applicant: [redacted]

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.

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 02 273 55167. The Director of the Texas Service Center denied the initial application on August 11, 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. However, the record of proceedings reveals that the denial decision was not mailed to the applicant's correct address. The denial notice was mailed to the applicant at the address listed on his initial TPS application, [redacted] On September 2, 2003, the applicant reported a new address on his Form I-765, Application for Employment Authorization, filed under receipt number WAC 03 252 51271. Since the denial decision was not mailed to the applicant at his address of record at that time, the applicant was deprived of an opportunity to file a timely motion to reopen his case.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 13, 2005, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits. The director denied the application on August 16, 2005, because the applicant's initial TPS application had been denied and he was not eligible for re-registration or renewal of temporary treatment benefits.

On appeal, the applicant states that he never received the denial decision dated August 11, 2004, even though he reported his address changes to the California Service Center in a timely fashion. The applicant submits a letter dated March 10, 2003, addressed to the Texas Service Center reporting an address change and a letter dated March 1, 2004, addressed to the California Service Center reporting another change of address. Neither of these letters is contained in the record of proceeding, and there is no indication in CIS computer records that either letter was received at the Texas Service Center or the California Service Center. Nevertheless, the fact remains that the denial decision was sent to an outdated address, and the applicant did not have an opportunity to file a timely motion to reopen his case.

The 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 dependent 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.

It is noted that the record of proceedings, as it is presently constituted, does not contain sufficient evidence to establish the applicant's identity and nationality or his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

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.