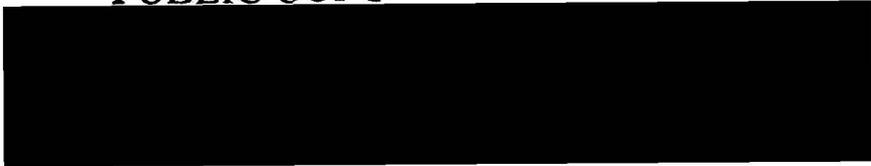




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy

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JAN 25 2007

FILE: [REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 01 198 51988]
[WAC 05 221 91673]

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
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 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 during the initial registration period under receipt number WAC 01 198 51988. The director denied the initial application on February 26, 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 director's decision was in error. Specifically, the record reveals that the fingerprint appointment notice was mailed to an incomplete address. The notice was mailed to the applicant at "[REDACTED]". The applicant listed his address on his Form I-765, Application for Employment Authorization, filed on September 19, 2003, as "[REDACTED]". The applicant's apartment number was omitted from his address on the fingerprint appointment notice. Since the fingerprint appointment notice was not mailed to the applicant's complete address, he never received the fingerprint appointment notice and was deprived of the opportunity to appear for his fingerprint appointment as scheduled or request another opportunity to be fingerprinted. It is noted that the applicant was subsequently fingerprinted in 2005 in conjunction with the current re-registration application, and no criminal record was found.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 9, 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.

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 continuous residence and continuous physical presence in the United States throughout 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.