



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER  
[WAC 05 210 73386 as it pertains to EAC 01 243 51036]

Date: JUN 22 2007

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:

[REDACTED]

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, Vermont 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 August 6, 2001, under receipt number EAC 01 243 51036. The Vermont Service Center director denied the initial application on October 2, 2003; however, the director did not state the specific reason for denial.

The record reveals that the applicant applied for re-registration on September 3, 2002, September 4, 2003, and April 28, 2005. In the applicant's re-registration applications, filed on September 3, 2002 and September 4, 2003, he provided an address of [REDACTED] San Bernardino, CA." On July 31, 2003, a Notice of Intent to Deny was sent to the applicant at [REDACTED] Harrisonburg, VA," his previous address. On October 2, 2003, the Notice of Decision to Deny was sent to the applicant at [REDACTED] Harrisonburg, VA." The record does not reflect that the applicant filed a motion to reopen within 30 days of the denial notice.

In his appeal, the applicant states he has provided all requested evidence. It is noted that the Notice of Intent to Deny and the Notice of Decision to Deny were not sent to the applicant's last known address of [REDACTED] San Bernardino, CA," which he provided on September 3, 2002 and September 4, 2003. Therefore, the director's decision on the initial application will be withdrawn and the application will be remanded for a new decision that specifically states the reason(s) for denial. The director's denial of the application for re-registration is dependent upon the adjudication of the initial application. Since the initial application is being remanded, that decision also will be remanded for further adjudication.

It is noted that the applicant is a beneficiary of an approved Form I-130, Petition for Alien Relative, filed on his behalf under section 203(a)(2)(A) of the Act, which he may claim makes him eligible for late registration. However, individuals who are awaiting preference allocation for an immigrant visa under section 203 of the Act are not eligible for late registration under 8 C.F.R. § 244.2(f)(2).

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 decision is withdrawn, and the application is remanded to the California Service Center for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.