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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

MAY 07 2007

[ WAC 05 123 71117 as it relates to SRC 01 181 68846]

IN RE:

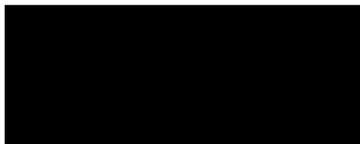
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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.

*Cynthia M. Gomez*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC). 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, AAO, and the case will be remanded for further consideration and action.

The applicant claims 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 Form I-821 on April 13, 2001, under SRC 01 181 68846, which was denied by the director on September 24, 2004, because the applicant had abandoned his application by failing to appear for fingerprinting.

The applicant filed the current Form I-821 on January 31, 2005, and indicated that he was re-registering for TPS.

The CSC Director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

As stated above, the director denied the initial application on September 24, 2004, after determining that the applicant had abandoned his application by failing to respond to a request to appear for fingerprinting. On September 9, 2002 and on September 10, 2003, the applicant submitted subsequent Forms I-821 along with Forms I-765, Application for Employment Authorization, providing updated address information. However, the director's September 24, 2004 decision was erroneously sent to the applicant's old address and not to the new one that he had provided in 2002. It is noted that the record reflects that his fingerprints were taken and sent to the Federal Bureau of Investigation on December 27, 2001, March 22, 2005 and on April 28, 2006. The applicant's FBI fingerprint report results identified no derogatory information.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision that fully addresses the evidence provided by the applicant in support of his claim. 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, the current decision will also be remanded to the director for further review pursuant to the new decision on the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

It is noted that the applicant has provided insufficient evidence to establish his continuous residence and continuous physical presence during the requisite time periods. 8 C.F.R. § 244.2 (b) and (c). Furthermore, the applicant has provided insufficient evidence to establish that he is a national of El Salvador. He has provided a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1).

An alien applying for TPS has the burden of proving that he or she meets the requirements and is otherwise eligible under the provisions of section 244 of the Act.

**ORDER:** The initial application is reopened, the director's decision is withdrawn and the application is remanded. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.