



U.S. Citizenship
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Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: MAY 11 2007

[WAC 05 223 77739 as it relates to SRC 01 226 74126]

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 California Service Center. 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. 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 is 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 which was denied by the director on March 5, 2003, because the applicant had not responded to a request for additional evidence dated January 22, 2003.

The applicant filed the current application, on May 11, 2005, and indicated that he was re-registering for TPS.

The 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.

The record reflects that the director sent the applicant two virtually identical Notices of Intent to Deny; one dated January 2, 2003, and a second dated January 22, 2003. The director denied the application because he determined that the applicant had abandoned his application by not responding to the second notice. However, the applicant's timely response to the nearly identical first notice should have been considered by the TSC director when the determination was made concerning his initial application.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision that fully addresses the evidence provided by the applicant in support of his claim.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.

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. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.