



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



FILE:



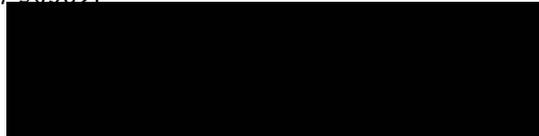
OFFICE: CALIFORNIA SERVICE CENTER

DATE: **MAY 21 2007**

[WAC 05 228 92685]  
[WAC 01 187 50389]

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 office that originally decided your case. Any further inquiry must be made to that office.

for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further 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 record indicates that the applicant filed a TPS application during the initial registration period on April 17, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 187 50389. That application was approved on October 25, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 16, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application based on abandonment on September 6, 2005, because the applicant had failed to appear for fingerprinting on June 10, 2005. Within the same denial decision, the director issued a Notice of Intent to Withdraw TPS because the applicant's failure to appear for fingerprinting rendered his re-registration application incomplete and abandoned.

The applicant responded to the director's notice of denial on September 28, 2005. He asserts that he never received the appointment letter for fingerprinting.

The record of proceeding contains Form I-797C, Notice of Action, dated May 19, 2005, advising the applicant that, "USCIS WILL SCHEDULE YOUR BIOMETRICS APPOINTMENT. You will be receiving an appointment notice with a specific time, date and place where you will have your fingerprints and/or photos taken." There is no evidence in the record, however, that the applicant was subsequently issued an appointment notice as specified on the Form I-797C.

The director accepted the applicant's response as an appeal and forwarded the file to the AAO. However, as the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Furthermore, if the applicant is also basing his appeal on the Notice of Intent to Withdraw, AAO also has no jurisdiction over this case because the applicant's TPS status has not yet been withdrawn, and there is no appeal for "Notice[s] of Intent."

Accordingly, the case will be remanded and the director shall consider the applicant's response as a motion to reopen.

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 case is remanded to the director for further action consistent with the above and entry of a decision.