



U.S. Citizenship
and Immigration
Services

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MAY 21 2007

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 134 71826 as it pertains to
[LIN 02 048 54022]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. 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 under receipt number LIN 02 048 54022. The director approved the initial application on January 23, 2002.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 1, 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.

However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the initial application had not been denied. The record indicates that the director incorrectly identified another application [REDACTED] as belonging to the applicant. The applicant's file number is [REDACTED].

The director's denial of the application will be withdrawn; the application will be remanded for a new decision. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Salvadorans.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

It is noted that that the applicant has provided insufficient evidence to establish his qualifying continuous residence since February 13, 2001 and continuous physical presence from March 9, 2001 to the filing date of the TPS application. It is also noted that a Federal Bureau of Investigation fingerprint results report indicates that the Gurnee, Illinois, Police Department arrested the applicant on September 28, 1994, for "Intent/Fraud OBT Trans W/O P." The final disposition for this arrest is not included in the record, nor was the final court disposition requested. It is also noted that the applicant has failed to declare on his applications that he has ever been arrested. CIS must address these arrests in any future proceedings.

The case is remanded for the purpose of a written decision, which fully addresses the evidence.

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 director's decision is withdrawn, and the application is remanded for a new decision.