

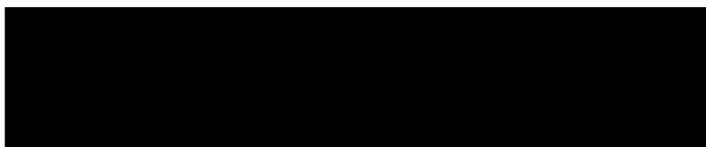


U.S. Citizenship
and Immigration
Services

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Information related to
present security operations
invasion of personal privacy

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FILE: [REDACTED] Office: California Service Center Date: MAY 29 2007
[WAC 05 197 74576]

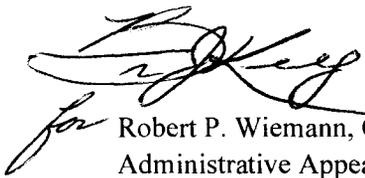
IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT: 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DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, California Service Center.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, Administrative Appeals Office, and the case will be remanded for further consideration and action.

The applicant is 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 record reveals that the applicant filed an initial TPS application on April 4, 2001, under CIS receipt number SRC 01 166 59029. The Texas Service Center director denied the application, on August 5, 2002, because the applicant failed to respond, within 30 days, to a request for evidence dated June 26, 2002, to submit evidence to establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence from March 9, 2001, to the date of filing his TPS application. The director, therefore, considered that application abandoned. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on September 25, 2002, under CIS receipt number SRC 03 083 53537, and indicated that he was re-registering for TPS. The Texas Service Center director denied that application on February 20, 2003, 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 does not reflect that the applicant filed a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 15, 2005, under CIS receipt number WAC 05 197 74576, and indicated that he was re-registering for TPS.

The director denied that application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states that he does not understand why his TPS application and his application for Employment Authorization were denied. The applicant does not submit any additional evidence on appeal.

The AAO notes that although the director deemed the initial TPS application abandoned, the record reflects that the applicant did respond, on June 3, 2002, to the April 24, 2002, request for evidence. Therefore, the initial TPS application should not have been denied for abandonment.

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

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