



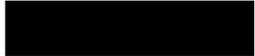
U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: NOV 19 2007

[WAC 05 131 81392]

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.

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 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 record reveals that [REDACTED] (applicant #2; see below) filed a TPS application during the initial registration period on April 16, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 01 181 67220. The Director, Texas Service Center, denied that application based on abandonment on December 3, 2002, because [REDACTED] (#2) had failed to respond to a request dated August 12, 2002, to submit the final court dispositions of all of his arrests. No motion to reopen was filed within 30 days from the date of the denial.

The applicant [REDACTED] (applicant #1; see below) filed the current Form I-821, Application for Temporary Protected Status, on February 8, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on April 18, 2005, after determining that the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, filed on April 5, 2005, the applicant (#1) states that he does not understand why his application was denied because he has not received anything from the director prior to his denial decision.

A review of the record of proceeding indicates that this case involves two different individuals with two different, but similar names and sharing the same A number. Photographs and signatures of the two individuals are different. There is no birth certificate or identification in the file for either of these two individuals. The Federal Bureau of Investigation (FBI) fingerprint report also reflects two different result reports with two different, but similar names. The FBI cover sheets show the same A number [REDACTED] and same dates of birth; however, the two reports bear different FBI report numbers. A distinction between the two individuals is as follows:

[REDACTED] (#1):

The FBI number for applicant #1 is [REDACTED]. The FBI report shows that this individual was arrested on July 4, 2002, at Riverside, California, and was subsequently convicted of (1) driving with .08 percent blood alcohol level or more, and (2) driving without a license.

The Form I-821, Application for Temporary Protected Status, from this individual, was filed on February 8, 2005 (WAC 05 131 81392). The California Service Center denied this application on April 18, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

It is noted that the Form I-821 indicates that the applicant was born on November 26, 1978, in La Libertad, El Salvador, and that he entered the United States without inspection near Phoenix, Arizona, on September 14, 1998. He listed his address as [REDACTED] Riverside, California.

[REDACTED] (#2)

The FBI number for applicant #2 is [REDACTED]. The FBI report shows that this individual was arrested in Key West, Florida, (1) on July 1, 1998, for driving without a valid license, and resisting an officer-failure to obey lawful command; and (2) on February 18, 2001, for probation violation.

The Form I-821, Application for Temporary Protected Status, from this individual, was filed on April 16, 2001 (SRC 01 181 67220). The Texas Service Center denied this application based on abandonment on August 12, 2002, because he failed to respond to a request to submit the final court dispositions of his arrests.

It is noted that the Form I-821 indicates that this individual was born on November 26, 1978, in Carolina, El Salvador, and that he entered the United States without inspection near Houston, Texas, on March 28, 2000. He listed his address as [REDACTED] Key West, Florida.

Accordingly, the case will be remanded to the director. The two cases should be separated and the individuals appropriately identified with their own individual A numbers. At that time, CIS should continue processing each case accordingly. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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.