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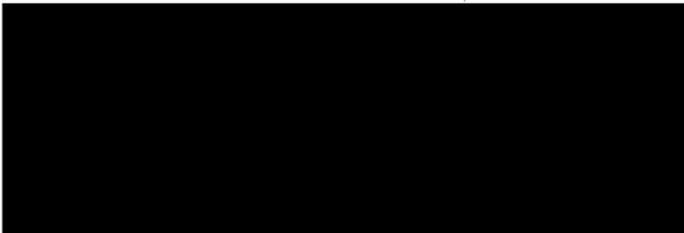
OFFICE: CALIFORNIA SERVICE CENTER

DATE: NOV 19 20

[WAC 05 225 88903]
[WAC 01 172 55109]

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 the applicant filed a TPS application during the initial registration period on March 30, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 172 55109. Upon filing, the applicant appears to have been inadvertently assigned, by a CIS official, the file number of another alien who had been granted adjustment of status to that of a lawful permanent resident (LAPR) [A70 917 541], and his address was subsequently changed to reflect the address listed for the LAPR. All documentation relating to the applicant was placed within the LAPR's file.

The applicant's file contains an incomplete and undated request for the applicant to submit: (1) a copy of the biographical pages of his passport; (2) a copy of his national identification card (Cedula); (3) a copy of his latest California drivers license or identification card; (4) evidence to show that he had resided in the United States since February 13, 2001; and (5) evidence to show that he had been continuously physically present from March 9, 2001, to the date of filing the application. The record does not contain evidence that the applicant responded to the director's request. On May 24, 2004, the director denied the initial application because the record indicates that the applicant had been granted status as a lawful permanent resident of the United States under section 245 of the Act, on August 12, 2002.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 17, 2005. The director treated the application as a re-registration application and determined that because the applicant's initial TPS application had been denied, the applicant was not eligible to apply for re-registration for TPS. The director, therefore, denied the application on August 16, 2005.

On September 16, 2005, the applicant filed Form I-290B, Notice of Appeal to the Administrative Appeals Office, appealing the director's decision of August 16, 2005. The applicant asserts that the requested documents were not submitted because he never received the director's letters, although his address was never incorrect.

It is noted that the applicant listed his address, as early as September 2002, as [REDACTED]. The director's decision denying the initial application was mailed to [REDACTED] and the director's decision denying the re-registration application was mailed to [REDACTED]. It is noted that the record of proceeding does not contain the Form I-821 application for re-registration (WAC 05 225 88903).

The case will, therefore, be remanded. The director shall review all CIS records pertaining to this applicant, and the director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS, including the applicant's birth certificate and English translation, as it is noted that the LAPR's birth certificate is included in the applicant's file. This does not preclude a notice for the applicant to appear for a personal interview and re-fingerprinting of the applicant under file number A98 879 501.

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 for appropriate action consistent with the above discussion and entry of a new decision.