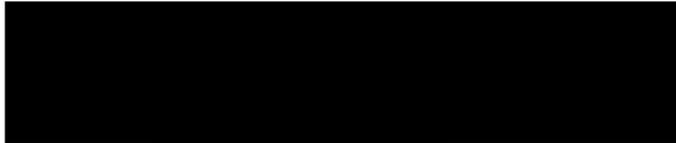




U.S. Citizenship
and Immigration
Services

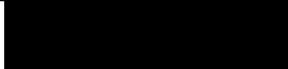
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prevent clearly unwarranted
invasion of personal privacy



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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: OCT 11 2007

[WAC 05 215 71203 as it relates to SRC 02 110 54978]

[appeal - WAC 05 250 51283]

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 California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann
Robert P. Wiemann, Chief
Administrative Appeals Office *fo*

DISCUSSION: The initial application was denied by the Director, Texas Service Center (TSC). 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 also was appealed, and the decision by the AAO on that appeal has been issued under separate cover. Based upon that decision, this application also will be remanded for further consideration and 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 applicant filed an initial application for TPS under receipt number SRC 02 110 54978. The director denied the initial application on August 12, 2003, because the applicant had abandoned his application by failing to provide a legible copy of photo identification such as a driver's license or any national identity document bearing his photograph or fingerprint such as his passport or national identification card. On March 19, 2004, the applicant filed an appeal from the denial decision. That appeal will be addressed in a separate decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 3, 2005, and indicated that he was re-registering for TPS.¹

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.

As stated above, the TSC Director denied the initial Form I-821 because the applicant had abandoned his application by failing to provide a legible copy of photo identification such as a driver's license or any national identity document bearing his photograph or fingerprint such as his passport or national identification card.

The record now contains a copy of the applicant's El Salvadoran passport.

The CSC director accepted the applicant's response to the CSC director's latest decision as an appeal and forwarded the file to the AAO. However, in this case, the TSC Director denied the original application due to abandonment; since the original decision was not appealable to the AAO, the AAO had no jurisdiction to consider the initial appeal from the director's denial of the subsequent Motion to Reopen. Therefore, the initial application was remanded so the CSC director could consider the applicant's response as a Motion to Reopen.

In the remand order, it was remarked that the applicant has provided insufficient evidence to establish his continuous residence and continuous physical presence during the required time period. 8 C.F.R. §§ 244.2 (b) and (c). It was also noted that there was little evidence of continuous residence and continuous physical presence prior to February 21, 2002, the date the applicant filed his initial application and his vaccination card indicates that he received his early childhood vaccinations in Mexico.

¹ The applicant also filed additional TPS re-registration applications in 2002 and 2003.

The director's denial of the initial application has been withdrawn in a separate order and the application has been 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, the current decision will also be remanded to the director for further review pursuant to the new decision on the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited above and is otherwise eligible under the provisions of section 244 of the Act.

ORDER: The initial application has been reopened, the director's decision concerning the re-registration application is withdrawn and the application is remanded for further action consistent with the director's new decision on the initial application.