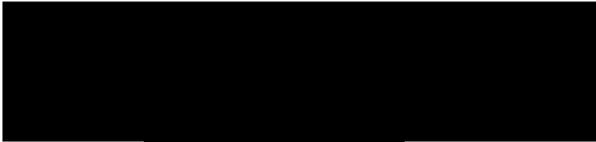




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

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[WAC 05 118 77126]

IN RE:

Applicant:



APPLICATION:

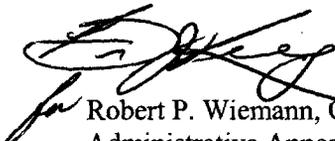
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 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.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

The record reveals that the applicant filed a TPS application during the initial registration period on May 7, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 197 55213. On March 19, 2002, the applicant was requested to submit additional evidence to establish continuous residence and continuous physical presence in the United States. Although CIS database indicates that the director denied the initial application based on abandonment on October 22, 2002, no denial notice is included in the record. On November 13, 2002, the applicant filed another TPS application and a Form I-765 (Application for Employment Authorization) under CIS receipt number WAC 03 054 52459. On February 18, 2003, the director issued a Notice of Intent to Deny (NOID) requesting that the applicant "submit the following: SEE ATTACHMENT ENCLOSED." The specific request(s) is not known as the "attachment" was not included with the NOID. Additionally, the record does not contain evidence that the director issued a notice of denial based on the NOID.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 26, 2005, and indicated that he was re-registering for TPS. The director denied the re-registration application on June 28, 2005, 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 of proceeding, however, does not contain the director's notice of denial issued based on either of the two notices of intent to deny [WAC 01 197 55213 and WAC 03 054 52459].

Therefore, the case is remanded for the inclusion of the director's decision(s) and any other necessary documentation into the record of proceeding, and to appropriately notify the applicant of the reasons for denial, if any.

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.