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**U.S. Citizenship  
and Immigration  
Services**

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**M1**

**JUL 22 2008**

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 165 73534 as it pertains to  
LIN 01 175 51607]

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:



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, Chief  
Administrative Appeals Office

**DISCUSSION:** The initial application was denied by the Director, Nebraska 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 claims to be 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 applicant filed an initial application for TPS under receipt number LIN 01 175 51607. The Director, Nebraska Service Center, denied that application on July 26, 2001, because the applicant failed to respond to a request for evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period and to submit proof of nationality and identity. CIS electronic records indicate the applicant appealed this decision in August 2001. However, the record of proceedings does not contain the appeal, the director's decision or the initial application.

The case is remanded for the inclusion of the applicant's appeal, the initial TPS application and the July 26, 2001 notice of decision.

The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the appeal of the initial application is not contained in the record, this decision can not be fully adjudicated.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). **8 C.F.R. § 244.9(a).** The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

It is noted that a Federal Bureau of Investigation (FBI) fingerprint results report indicates that the Aspen, Colorado Police Department arrested the applicant on February 5, 2004 for "Disord Conduct." In addition, the Arlington, Virginia Police Department arrested the applicant on October 16, 2004 for "Assault & battery – Family Member." The final dispositions for these arrests are not included in the record, nor does the applicant's file as presently constituted reflect that the final court dispositions were requested. It is also noted that the applicant has failed to declare on the applications in the record that he has ever been arrested. CIS must address these arrests in any future proceedings.

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.