



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: California Service Center DATE: SEP 02 2008
[WAC 05 216 77790]

IN RE: Applicant: [REDACTED]

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, Director
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.

The record reveals that the applicant filed a late initial TPS application on September 27, 2002, under receipt number EAC 03 063 53776. The electronic record indicates the application was denied on April 29, 2003. On August 4, 2003, the applicant submitted a motion to reopen under receipt number EAC 03 227 51918, in which he stated that he had not received a denial notice or notice to appear for fingerprinting. The applicant stated he had provided his new mailing address to the Service. The applicant submitted another motion to reopen on August 18, 2003, under receipt number EAC 03 227 53226, which was rejected at the Service Center because of an incorrect filing fee.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 4, 2005, and indicated that he was re-registering for TPS. The director denied the re-registration application on August 16, 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 denying the applicant's initial TPS application (EAC 03 063 53776), or the decision for motion to reopen (EAC 03 227 51918). Therefore, the case is remanded for the inclusion of the director's decision and any other necessary documentation into the record of proceeding. 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.