



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: DEC 04 2006
[WAC 05 224 71561]
[WAC 01 187 54304]

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, 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 April 23, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 187 54304. The director denied that application on January 13, 2004, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting on December 26, 2002.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 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.

On appeal, the applicant asserts that he has submitted proofs that he is a Salvadoran national, that he has resided here prior to February 13, 2001, that he is a good person, and that he registered timely. He further asserts that he never received a denial decision from CIS. He submits additional evidence.

A review of the record of proceeding indicates that the Fingerprint Notification dated November 15, 2002, informing the applicant to appear for fingerprinting on December 26, 2002, was mailed to the applicant's previous address ([REDACTED]). CIS records, however, indicate that prior to the mailing of the Fingerprint Notification, the applicant submitted Forms I-821 and I-765, listing his address as [REDACTED].

Accordingly, the director's finding that the applicant abandoned his initial application will be withdrawn.

It is noted that the applicant had subsequently been fingerprinted on July 1, 2005 and on June 16, 2006, and the Federal Bureau of Investigation fingerprint results reports do not reflect a criminal record that would bar the applicant from receiving TPS.

The case will be remanded to the director for further adjudication of the application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

It is noted that the applicant furnished evidence under the names of [REDACTED] and [REDACTED] in an attempt to establish continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The applicant did not submit evidence to establish that these two assumed names are in fact the same person as the applicant. Additionally, the record does not contain photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1).

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.