

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

M1

APR 30 2007

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 123 76096 as it pertains to]

[SRC 01 244 55320]

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

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas 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 is 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 record reveals that the applicant filed a TPS application during the initial registration period on July 31, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 01 244 55320. The Director, Texas Service Center, denied that application for abandonment on March 6, 2003, because the applicant failed to respond to a request for evidence to establish his nationality and identity, and evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period.

However, the record of proceedings reveals that on October 28, 2003, the applicant filed an appeal from the denial decision. The Director (now Chief), AAO, remanded that appeal on July 29, 2005. A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen within 30 days. As this decision was based on abandonment, the AAO has no jurisdiction over the case and the case was remanded so that the Director, Texas Service Center could consider the applicant's response as a motion to reopen. The record does not contain a subsequent decision by the Director, Texas Service Center.

The director's denial of the initial application will be withdrawn; the application will be 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, that decision will be remanded to the director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Salvadorans.

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).

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.