



U.S. Citizenship
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: JUL 02 2007
[WAC 05 146 73854 as it pertains to SRC 02 143 54142]

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.

Cindy M. Gomez for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center (TSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC), 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 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 applicant filed an initial application for TPS on April 23, 2002, during the initial registration period, under receipt number SRC 02 143 54142. The TSC director denied the initial application on February 14, 2003, for reasons that were not clearly specified in the denial letter.

The director noted that the applicant had responded to a request for additional evidence, but stated that the evidence was incomplete, and that the application could not be approved. While the director's decision states that the Form I-821, Application for Temporary Protected Status, and the Form I-765, Application for Employment Authorization, are denied, the specific reason for the denial of the Form I-821 is not indicated. As provided in 8 C.F.R. § 103.3, "the officer shall explain in writing the specific reasons for denial." In addition, the director's letter indicated that there was no appeal available to the decision. While correct that the denial of employment authorization could not be appealed, the denial of the initial TPS application was, in fact, appealable.

On April 8, 2003, the applicant filed a subsequent application for TPS and indicated that he was re-registering for TPS benefits [SRC 03 131 55217]. On June 2, 2003, the TSC director denied the applicant's employment authorization application [SRC 03 131 55227] because the applicant's initial TPS application had been denied on February 14, 2003. On June 28, 2004, the applicant filed an appeal, and indicated he was appealing the June 2, 2003 decision. Referencing SRC 02 143 54142 and SRC 03 131 55217, the TSC director dismissed [by stating "denied"] the motion on October 12, 2004. The TSC director concluded that the applicant had not overcome the basis for the original denial of his TPS application in that the applicant had failed to establish his continuous residence in the United States since February 13, 2001.

The applicant filed additional applications with the most recent application for TPS filed on February 23, 2005, under CIS receipt number WAC 05 146 73854, and indicated that he was re-registering for TPS. The CIS director denied that application on August 16, 2005, because his initial TPS application had been denied and the applicant was not eligible to file for re-registration.

On appeal, the applicant states that he believes his application was denied in error and that he has sufficient evidence of his continuous residence in the United States. In support of the appeal, the applicant submits additional evidence consisting of: the biographic page of his El Salvadoran passport issued to him in El Salvador on June 16, 2000; medical treatment activity status reports on a worker's compensation claim dated in October and November of 2001; and, wire services transcript receipts dated between February 2001 through February 2003. He also resubmits some of the evidence previously entered into the record, including an affidavit of employment.

Because the initial TPS application was denied without providing a specific reason for the denial and without providing an opportunity for appeal pursuant to 8 C.F.R. § 244.10(c), the case will be remanded for the issuance of a new decision that sets forth the specific reasons for the denial.

The director's denial of the initial application will be withdrawn, and 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.

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 *sua sponte* 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.