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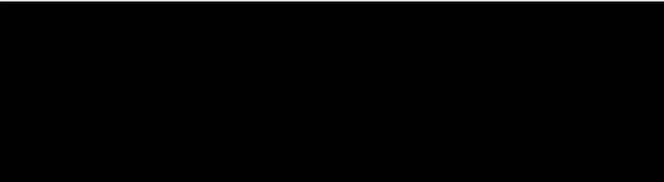


FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUL 27 2007  
[WAC 05 204 73466 as it pertains to SRC 01 189 70018]

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:



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.

*Cindy N. Gomez*  
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, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO, 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 under receipt # SRC 01 189 70018 which was denied by the director on March 5, 2003, because the applicant had abandoned his application by failing to respond to a Notice of Intent to Deny (NOID) dated October 23, 2002. The NOID requested additional evidence concerning his continuous residence and continuous physical presence.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 22, 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.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

As stated above, the director denied the initial application after determining that the applicant had abandoned his application by failing to respond to a request for additional evidence dated October 23, 2002. On May 31, 2002, the applicant submitted a Form I-765, Application for Employment Authorization, providing updated address information. However, the NOID dated October 23, 2002, was erroneously sent to the applicant's old address and not to the new one that he had provided. It is noted that the director sent the denial notice dated March 5, 2003 to the address listed on the Form I-765 filed on May 31, 2002.

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, the current decision will also be remanded to the director for further review pursuant to the new decision on the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.