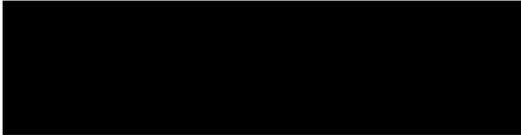




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

JUN 25 2007

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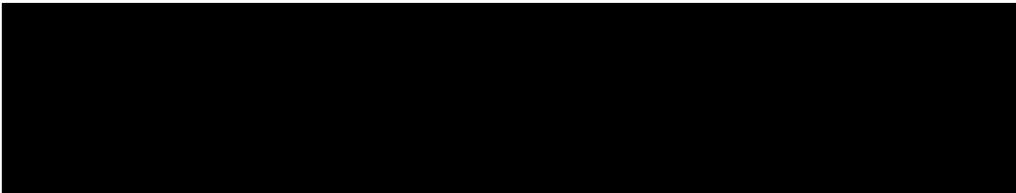
Applicant:



APPLICATION:

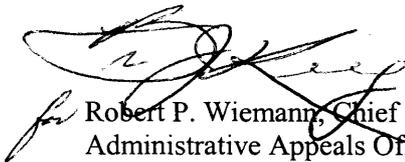
Application for Temporary Protected Status under Section 244 of the
Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the 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 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 TPS application on December 20, 1991. That application was approved on January 9, 1992. On February 9, 2006, the director issued a Notice of Intent to Withdraw (NOIW) the applicant's TPS status because the applicant had failed to re-register prior to November 12, 2002, as required; therefore, the applicant was accorded 30 days in which to present evidence of good cause for failure to re-register.

The applicant filed the current TPS application on May 11, 2005, and indicated that he was re-registering for TPS. The director denied the re-registration application on August 15, 2006, because the applicant had not been granted TPS during the initial registration period or during any subsequent registration period; therefore, the applicant was not eligible to apply for re-registration for TPS.

It is noted that although the director issued a NOIW, the record is devoid of any evidence that the director had subsequently issued a notice withdrawing the applicant's TPS status. However, the director, in this case, erroneously issued the notice of intent to withdraw the applicant's TPS status that was granted on January 9, 1992, during the 1991 TPS designation for El Salvadorans. That designation terminated, and the applicant's TPS benefits expired, on June 30, 1992. The re-designation of El Salvador's TPS eligibility became effective on March 9, 2001, and subsequent extensions of the TPS designation have been granted until September 9, 2007. That earlier 1991 TPS designation is unrelated to the [present] 2001 TPS re-designation.

It is noted that the applicant was issued an Employment Authorization Card on October 30, 1997, based on a pending Application for Asylum and for Withholding of Deportation, Form I-589, filed on September 25, 1995. That application, however, was administratively closed on January 28, 2005, based on the applicant's failure to appear for a scheduled interview on May 27, 2004.

The director's decision to deny the re-registration application will be withdrawn, and the case will be remanded for a new decision. 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 case is remanded to the director for further action consistent with the above.