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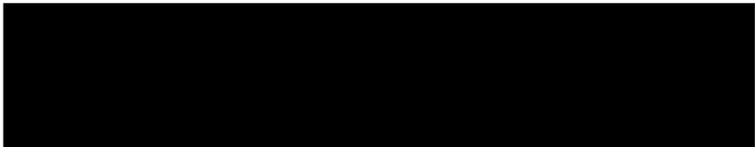
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: FEB 29 2008

[WAC 06 006 52818, appeal]
[WAC 05 162 76024, as it pertains to
[EAC 07 101 50464, motion]

IN RE:

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

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Nebraska Service Center. 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 motion. 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 April 23, 2001, under Citizenship and Immigration Services (CIS) receipt number LIN 01 172 51844. The Director, Nebraska Service Center, denied that application on November 29, 2002, because the applicant had been convicted of three misdemeanors in the United States. There is nothing in the record to indicate that the applicant appealed the director's decision. The applicant filed a subsequent TPS application on September 9, 2002 under CIS receipt number LIN 02 290 50677. The District Director, Salt Lake City, Utah denied that application on January 13, 2004, because the applicant had been convicted of three misdemeanors in the United States. However, the record of proceedings reveals that the decision was returned by the U.S. Postal Service for "insufficient address." It is also noted that the record contains an approval notice dated November 8, 2004. However, the TPS application is marked "Denied January 13, 2004", and is also marked "January 1, 2007 signed in Error DAO 5417."

Since the record of proceeding contains conflicting information regarding the status of the applicant's TPS applications, the case will be remanded to the director, CSC, for a new decision.

The applicant filed a re-registration application on February 1, 2005 under CIS receipt number WAC 05 162 76024. The CSC director denied the re-registration application on September 21, 2005 because the applicant had not been granted TPS and, therefore, was not eligible for re-registration. On appeal, the applicant states that he first entered the United States on March 10, 1999 and has made attempts to continue his case. The applicant requests that his case be reviewed and he be allowed to respond to any request.

It is noted that the applicant's Federal Bureau of Investigation (FBI) Fingerprint Results Report reflects that on September 15, 1999, the Salt Lake City Sheriff's Office arrested the applicant for "Unlicensed Driver", "Drive Without Auto Insur", "False Info", and "Hit an Run Parked." The final dispositions for these arrests are not in the record.

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 shall request the final court dispositions for the applicant's arrests outlined above, and any other 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.