

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY

MI

DEC 28 2006

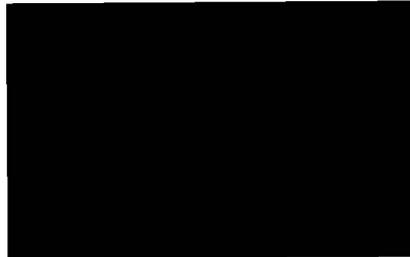
FILE:

[WAC 05 197 77534]

OFFICE: CALIFORNIA SERVICE CENTER Date:

IN RE:

Applicant:



APPLICATION:

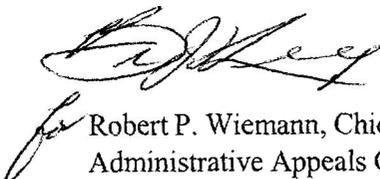
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, California 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 stated to be 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 2, 2001, under receipt number WAC 01 172 57701. The director denied the initial application on October 21, 2003, after determining that the applicant had abandoned his application by failing to provide the final court dispositions for his arrests.

However, the record of proceedings reveals that the director's decision was in error. The record reveals that the applicant's initial TPS application was not approved; however, he applied for re-registration on December 2, 2002, August 29, 2003, and April 15, 2005. In the applicant's initial TPS application, filed on April 2, 2001, he provided an address of [REDACTED]. On December 2, 2002, the applicant provided an address of [REDACTED]. On August 29, 2003 and April 15, 2005, the applicant provided an address of [REDACTED]. After the applicant failed to provide the final court dispositions, on October 21, 2003, the director sent a Notice to Deny to the applicant at [REDACTED].

In his appeal, the applicant states he has sent all requested documents. It is noted that the denial notice was not sent to the applicant's last known address of [REDACTED] which he provided on August 29, 2003. Therefore, the director's decision on 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 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.

It is noted on January 7, 1997, the applicant was convicted of having 0.08 percent or more, by weight, of alcohol in his blood, while driving a vehicle, in violation of California Vehicle Code § 23152(b), which is a misdemeanor. Additionally, on September 3, 2002, the applicant was convicted of driving without a license, in violation of California Vehicle Code § 12500(a), which is also a misdemeanor. Therefore, the applicant is ineligible for TPS due to his record of two misdemeanor convictions.

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.