



U.S. Citizenship
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FILE: 
[WAC 05 158 70580]

OFFICE: CALIFORNIA SERVICE CENTER

DATE:

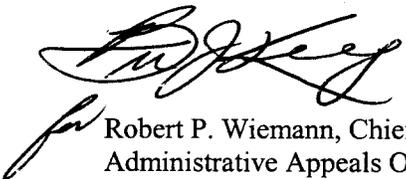
IN RE: Applicant: 

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.


for 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 claims 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 record reveals that the applicant filed a TPS application during the initial registration period on August 31, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 288 51157. The director denied that application on October 4, 2004, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting [on April 3, 2004].¹ The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 7, 2005, and indicated that he was re-registering for TPS. The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts that he appeared for fingerprinting on April 3, 2004, which was his appointment date, and that he again appeared for fingerprinting on April 26, 2005. To support his claim, the applicant submits a copy of "DBI TENPRINTER Applicant Information Worksheet (AIW)." The AIW worksheet was date stamped completed on April 3, 2004. Accordingly, the director's finding that the applicant abandoned his initial application will be withdrawn.

Therefore, the case will be remanded so that the director could render a full adjudication of the application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

It is noted that documents contained in the record of proceeding are insufficient to establish that the applicant met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Additionally, although the record of proceeding contains an El Salvadoran birth certificate and English translation, the certificate was not accompanied by a photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1).

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 for appropriate action consistent with the above discussion and entry of a new decision.

¹ While the director indicated that a request to appear for fingerprinting was sent to the applicant on February 18, 2004, the director incorrectly stated that the applicant was instructed to appear for fingerprinting "beginning on September 19, 2001."