

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

ML

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: JUL 28 2006

[SRC 01 169 56024]

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:

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 application was denied by the Director, California Service Center. The application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and will be remanded to the Director, California Service Center, 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 applicant filed her TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 01 269 56024. On May 10, 2004, a fingerprint appointment notice was mailed to the applicant instructing her to appear at the applications support center in Miami, Florida, on June 15, 2004, to be fingerprinted. The applicant failed to appear for her fingerprint appointment, and the appointment notice was returned to CIS as undeliverable mail. The Director, Texas Service Center, denied the application on October 26, 2004, due to abandonment because the applicant failed to appear to be fingerprinted or request another appointment to be fingerprinted.

However, both the fingerprint appointment notice and the Notice of Denial Due to Abandonment were mailed to an outdated address. Both notices were mailed to the address listed by the applicant on her Form I-821, Application for Temporary Protected Status, [REDACTED]. On July 30, 2003, the applicant, who had subsequently moved to San Bernardino, California, reported a new address on her Form I-765, Application for Employment Authorization, [REDACTED].

[REDACTED] Since the fingerprint appointment notice and the denial notice were not mailed to the applicant's current address of record, it cannot be concluded that she abandoned her initial TPS application. Additionally, the record reveals that the applicant subsequently was fingerprinted and the FBI criminal history printout dated February 15, 2005, does not reflect a criminal record that would bar the applicant from receiving TPS.

Since the applicant appears to have overcome the sole ground for the denial of her initial application for TPS, that decision will be withdrawn and the application 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. 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 application is reopened and the director's decision is withdrawn. The application is remanded for a new decision.