



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy
PUBLIC COPY



MI

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: OCT 16 2006

[LIN 01 164 50098]

[LIN 02 216 50046]

[WAC 05 211 85713]

IN RE:

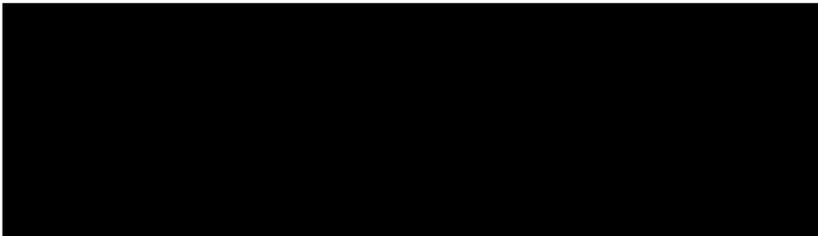
Applicant:



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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. A subsequent application was also denied by the Director, Nebraska 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 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 11, 2001, under Citizenship and Immigration Services (CIS) receipt number LIN 01 164 50098. The Director, Nebraska Service Center, denied that application on December 13, 2001, because the applicant failed to establish his date of entry, and his continuous residence and continuous physical presence in the United States during the qualifying period. The applicant submitted a subsequent TPS application during the initial registration period on June 12, 2002, under Citizenship and Immigration Services (CIS) receipt number LIN 02 216 50046. The Director, Nebraska Service Center, denied that application on April 9, 2003, because it was determined that the applicant once again failed to submit sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period. There is nothing in the record to indicate that the applicant appealed either decision. However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the applicant did provide evidence of his continuous residence and continuous physical presence during the qualifying period. The applicant submitted a letter from [REDACTED], ESL Program Director of Flint Hills Learning Center, Emporia, Kansas. In the letter, dated February 27, 2002, [REDACTED] stated that the applicant had attended the Learning Center since September 1, 2000.

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 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 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.