



U.S. Citizenship  
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Services

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**OCT 23 2006**

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 148 77857]

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 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 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 2, 2001, under Citizenship and Immigration Services (CIS) receipt number LIN 01 157 51510. The Director, Nebraska Service Center, denied that application for abandonment on September 21, 2001, because the applicant failed to appear for fingerprinting. The applicant submitted a subsequent TPS application on July 10, 2002, under CIS receipt number LIN 02 240 50080. The Director, Nebraska Service Center, denied that application on January 21, 2003, because the applicant failed to establish her continuous residence and continuous physical presence in the United States during the qualifying period. On February 18, 2003, the applicant filed an appeal from the denial decision. On April 13, 2004, the Director (now Chief), AAO, rejected that appeal because it was filed by a person without legal standing to file the appeal. However, the record of proceedings reveals that the decisions were in error. Specifically, the record reveals that the applicant's fingerprints were taken on September 12, 2001. Therefore, the initial denial was incorrect. Furthermore, the AAO director's decision did not show the applicant's apartment number, and it was returned to CIS. Consequently, the applicant never received it.

The director's denial of the initial applications 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 applications. Since the initial applications are 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.