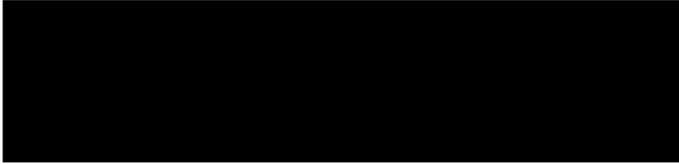




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy



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FILE:



Office: California Service Center

Date: APR 30 2007

[WAC 05 153 74377]

IN RE:

Applicant:

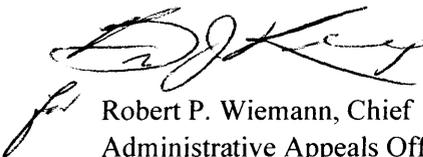


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 California Service Center. 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. 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 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 reflects that the applicant's initial TPS application was filed, under file number SRC01 277 55909, on September 10, 2001. On August 27, 2003, the director of the Vermont Service Center denied that application. On appeal of that decision, the AAO remanded the case for a new decision that sets forth the specific reasons for the decision, pursuant to the requirement at 8 C.F.R. § 103.3 which requires that when an officer denies an application, "the officer shall explain in writing the specific reasons for the denial". The AAO rendered its remand decision on May 9, 2005. In accordance with the AAO's remand instructions, the Vermont Service Center director issued a new decision on October 6, 2005.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 2, 2005, and indicated that he was re-registering for TPS.

On August 16, 2005, the California Service Center director denied the re-registration application because he determined the applicant's initial TPS application had been denied on August 27, 2003, and the applicant was not eligible to apply for re-registration for TPS. The AAO notes, however, that the August 16, 2005 decision was rendered prior to the new decision, issued on October 6, 2005, by the Vermont Service Center director.

The California Service Center director erred in rendering a decision on the re-registration application prior to issuance of the new decision on the initial application, by the Vermont Service Center director, in accordance with the AAO's remand instructions. Therefore, the applicant was not given an opportunity to file a meaningful appeal of the initial decision.

The director's denial of the initial application will be withdrawn; the application will be remanded for re-issuance of the initial decision to give the applicant an opportunity to file a meaningful appeal of the initial 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.