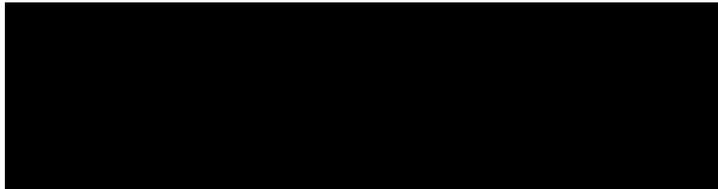


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and Immigration
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: JAN 17 2007
[WAC 05 221 82991]
[WAC 02 106 53898]

IN RE: Applicant: [REDACTED]

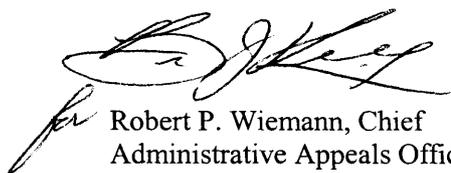
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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, and is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further 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 reveals that the applicant filed a TPS application during the initial registration period on February 6, 2002, under Citizenship and Immigration Services (CIS) receipt number WAC 02 106 53898. The director denied that application on September 20, 2005, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting on January 18, 2005.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 9, 2005, and indicated that he was re-registering for TPS. The director denied the re-registration application on September 20, 2005, 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, counsel asserts that the applicant did not abandon his initial TPS application, and that the applicant did everything possible to comply with the director's requests. Counsel explains that the applicant appeared for his scheduled fingerprint appointment on January 18, 2005, but because of a peeling callus on the middle finger of his left hand, the applicant was told to return in two weeks. He asserts that the applicant appeared for his new appointment on February 5, 2005, and three more times, on February 20, June 25, and July 9, only to be turned away each time because of the unhealed callus on his finger. Counsel submits copies of "DBI TENPRINTER Applicant Information Worksheet (AIW)" and reappointment letters to support his claim.

Accordingly, the director's finding that the applicant abandoned his initial application will be withdrawn. However, CIS records and the Federal Bureau of Investigation data base contain no evidence to show that the applicant has since been properly fingerprinted. Additionally, the evidence contained in the record of proceeding is insufficient to establish the applicant's qualifying 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).

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

The director's denial of the current application for re-registration/renewal is dependant upon the adjudication of the initial application; therefore, the current application will also be remanded to the director for further action.

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.