



U.S. Citizenship
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Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 221 87787]

JAN 19 2007
Date:

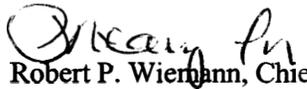
IN RE: Applicant: [REDACTED]

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. Wiernann, Chief
Administrative Appeals Office

DISCUSSION: The application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. 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 applicant filed an initial application for TPS during the initial registration period under receipt number WAC 01 171 56744. The director initially denied the application on February 3, 2004, because the applicant failed to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On February 26, 2004, the applicant filed an appeal from the denial decision. On appeal, the applicant submitted substantial evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

The director reopened the matter on March 3, 2004. On March 9, 2004, the applicant was sent a notice instructing him to appear at the Application Support Center in Gardena, California, to be fingerprinted on April 2, 2004. The notice was mailed to the applicant's address of record, but was returned to the California Service Center as undeliverable mail.

On May 20, 2004, the director denied the application again after determining that the applicant had abandoned his application by failing to appear for his fingerprint appointment or request that his fingerprint appointment be rescheduled. The director advised the applicant that, while the decision could not be appealed, he could file a motion to reopen within 30 days.

The applicant filed a motion to reopen the matter on June 10, 2004; however, the director erroneously accepted the applicant's response as an appeal instead of a motion to reopen and forwarded the file to the AAO. As the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Therefore, the case has been remanded to the California Service Center for consideration as a motion to reopen.

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 or renewing his temporary treatment benefits.

The applicant's appeal from the denial decision dated May 20, 2004, has been remanded to the California Service Center for consideration as a motion to reopen or reconsider. 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, the denial of the current re-registration application will also 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.

It is noted that the applicant was subsequently fingerprinted in conjunction with the current re-registration application, and no criminal record was found for the applicant.

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 re-registration application is remanded for further action consistent with the director's new decision on the initial application.