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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE MAY 08 2007
[WAC 05 208 85284]

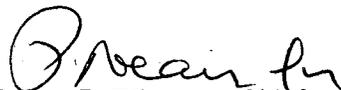
IN RE: Applicant: [REDACTED]

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. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded for further action.

The applicant is a native and citizen of El Salvador who is applying for 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 his prior Form I-821, Application for Temporary Protected Status, on April 5, 2001, under CIS receipt number WAC 01 173 52625. The director initially denied the application on February 2, 2004, because the applicant failed to appear for his fingerprint appointment or request that his fingerprint appointment be rescheduled. On February 13, 2004, the applicant filed a motion to reopen the case. The director subsequently reopened the matter and denied the application again on April 13, 2004, because he found the applicant had been convicted of three misdemeanor offenses. On May 7, 2004, the applicant filed an appeal from the denial decision dated April 13, 2004.

The applicant filed the current re-registration application on April 29, 2005. The director denied the application on July 27, 2005, because the applicant's prior TPS application had been denied and he was not eligible to re-register for TPS.

The applicant's initial application has been remanded to the service center director for issuance of a notice providing the applicant with an opportunity to certified court documents revealing the final court dispositions of all arrests since his arrival in the United States, and issuance of a new decision.

The director's denial of the application for re-registration is dependent upon the adjudication of the initial application. Since the initial application has been remanded, the re-registration application will also be remanded to the service center 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, on appeal, submits a letter from the Superior Court of California, County of Los Angeles, indicating that a criminal record search was conducted under the name [REDACTED] [REDACTED] date of birth October 3, 1978, and no record of felony or misdemeanor convictions was found. The applicant also submits a letter dated May 4, 2004, from the Los Angeles Police Department stating that a copy of the applicant's arrest record would be mailed directly to Citizenship and Immigration Services (CIS) in four to six weeks. There is no indication in the record that CIS ever received a copy of the applicant's arrest record from the Los Angeles Police Department. Nevertheless, neither of these documents constitutes a final court disposition document. The applicant has provided a criminal record search from the Superior Court of California, County of Los Angeles, relating to his arrest in Santa Ana, California on the charges of burglary, theft of personal property, and providing false identification to a police officer. Since the applicant was arrested and charged with these offenses in Santa Ana, California, his criminal proceeding would not have been conducted in the Superior Court of California, County of Los Angeles, but rather in a different jurisdiction.

It is further noted that the record of proceeding, as it presently constituted, does not contain sufficient evidence to establish the applicant's identity and nationality or his continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. Finally, it is noted that the

applicant, under penalty of perjury, falsely indicated on Part 4, Line 2.a., and d., of his application for TPS that he had not been convicted of any misdemeanors and that he had never been arrested. This misrepresentation of a material fact in an application for immigration benefits would also render the applicant inadmissible under section 212(a)(6)(C) of the Act.

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 matter is remanded for further action consistent with the above and entry of a new decision.