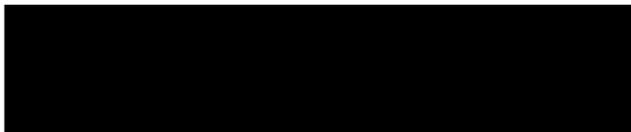


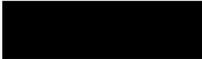


U.S. Citizenship
and Immigration
Services

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invasion of personal privacy



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FILE:  Office: CALIFORNIA SERVICE CENTER
[SRC 02 186 53171 and
SRC 02 268 54409 as these pertain to
WAC 05 209 77559]

Date: MAR 09 2007

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial applications were denied by the Director, Texas 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 claims to be 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 with the Texas Service Center on May 28, 2002, under receipt number SRC 02 186 53171. The applicant filed a second Form I-821, Application for Temporary Protected Status, with the Texas Service Center on September 9, 2002, under receipt number SRC 02 268 54409. The Director of the Texas Service Center denied both applications on February 5, 2004, after determining that the applicant had abandoned his application by failing to respond to a request for additional evidence dated September 17, 2003.¹ However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the applicant reported a new address on his Form I-765, Application for Employment Authorization, filed with the California Service Center on September 5, 2003, under receipt number WAC 03 252 53614. The applicant listed his new address as [REDACTED]. The request for additional evidence and the denial decision were sent in error to the applicant's former address at [REDACTED]. Since the request for additional evidence and the denial decision were mailed to an outdated address, the applicant was deprived of an opportunity to respond to the request for evidence and/or to file a motion to reopen his case within the requisite periods.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 27, 2005, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits.

The director denied the application on August 16, 2005, because the applicant's initial TPS applications had been denied and he was not eligible to apply for re-registration or renewal of his temporary treatment benefits.

The director's denial of the initial application 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 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.

It is noted that the applicant has not submitted sufficient evidence to establish his identity and nationality, his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

¹ A dated copy of the request for additional evidence is not included in the record.



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.