



U.S. Citizenship  
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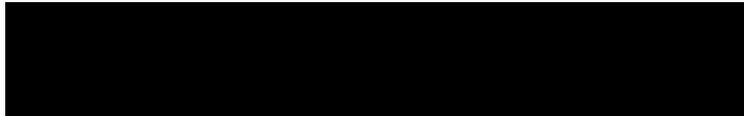
OFFICE: CALIFORNIA SERVICE CENTER

DATE: **MAR 27 2007**

[WAC 05 113 70325]

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 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 claims to be 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 applicant filed the current Form I-821, application for TPS, on January 21, 2005, and indicated that he was re-registering for TPS. The director denied the re-registration application on September 21, 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, the applicant requests reconsideration of his application because he never received any notice from the director.

A review of the record of proceeding indicates that the applicant filed a TPS application during the initial registration period on April 23, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 187 53680. The director denied that application on March 15, 2004, because the applicant had "failed to register in a timely manner." However, the record indicates that the director's decision was in error. Specifically, the initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002; the applicant, in this case, filed his initial application on April 23, 2001. Additionally the director's denial decision was mailed to the applicant's former address [REDACTED]. It is noted that prior to the director's decision, the applicant filed a subsequent Form I-821 and Form I-765, Application for Employment Authorization, including a letter from the applicant, listing his current address at that time, [REDACTED].

Accordingly, the director's denial of the initial application will be withdrawn, and the case will be remanded for further adjudication of the application.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

The record of proceeding contains significant derogatory information that must be addressed by the director in any future decisions or proceedings:

1. The Federal Bureau of Investigation (FBI) fingerprint results report indicates that on August 11, 2002, in Salinas, California, the applicant, under the name of [REDACTED] was arrested for Count 1, driving under the influence of alcohol/drugs; and Count 2, driving with .08 percent blood alcohol level or more. The final court disposition of this arrest is not contained in the record.
2. The FBI report indicates that the applicant (name used: [REDACTED]) was born in Mexico and that his citizenship is that of Mexico. The applicant is required to meet the eligibility requirements that he is a national of a designated foreign state pursuant to section 244(c) of the Act. The country of Mexico is not a foreign state designated under section 244 of the Act.
3. The applicant's initial TPS application was accompanied with a copy of an El Salvadoran birth certificate indicting that [REDACTED] was born in El Salvador to [REDACTED] and [REDACTED]. In a letter dated September 11, 2003, the applicant requested that a change be made on his [REDACTED].

employment authorization card to reflect his correct name, [REDACTED]. He submits a copy of a birth certificate indicating that [REDACTED] was born in El Salvador to [REDACTED] and [REDACTED]. No explanation was given as to how or why the applicant has two different birth certificates.

4. The record contains insufficient credible evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application.

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.