



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: **MAY 21 2007**

[WAC 05 224 82137]

[WAC 01 221 54236]

IN RE:

Applicant:



APPLICATION:

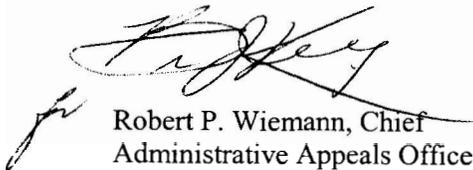
Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

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 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 indicates that the applicant filed a TPS application during the initial registration period on May 17, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 221 54236. That application was approved on February 9, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application based on abandonment on September 6, 2005, because the applicant had failed to appear for fingerprinting on June 22, 2005. Within the same denial decision, the director issued a Notice of Intent to Withdraw TPS because the applicant's failure to appear for fingerprinting rendered his re-registration application incomplete and abandoned.

The applicant responded to the director's notice of denial on September 27, 2005. He asserts that he did not receive the appointment letter for fingerprinting.

The record of proceeding contains Form I-797C, Notice of Action, dated May 17, 2005, advising the applicant that Form I-821, Application for Temporary Protected Status, had been received and that, "USCIS WILL SCHEDULE YOUR BIOMETRICS APPOINTMENT. You will be receiving an appointment notice with a specific time, date and place where you will have your fingerprints and/or photos taken." There is no evidence in the record, however, that the applicant was subsequently issued an appointment notice as specified on the Form I-797C.

The director accepted the applicant's response as an appeal and forwarded the file to the AAO. However, as the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Furthermore, if the applicant is also basing his appeal or motion on the Notice of Intent to Withdraw, AAO also has no jurisdiction over this case because the applicant's TPS status has not yet been withdrawn, and there is no appeal for "Notice[s] of Intent."

Accordingly, the case will be remanded and the director shall consider the applicant's response as a motion to reopen.

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 to the director for further action consistent with the above and entry of a decision.