



**U.S. Citizenship
and Immigration
Services**

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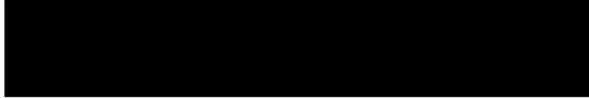
Office: VERMONT SERVICE CENTER

Date: **APR 25 200**

[EAC 0304850002 -- as it relates to
EAC 01 206 54885]

INRE:

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 Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Vennont Service Center (VSC). A subsequent application for re-registration was denied by the Director, VSC, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the AAO, and the case will be remanded to the director of the VSC for further consideration and 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 reflects that the applicant filed an initial Form I-821, Application for Temporary Protected Status, with the VSC on June 6, 2001, during the initial registration period (EAC 01 206 54885 relates). The applicant failed to submit any documentation in support of the application to establish his eligibility for TPS. On August 31, 2001, the director requested the applicant to appear (on October 10, 2001) for fingerprinting require _____ appear was mailed to the applicant at his address of record _____, but was returned to Citizenship and Immigration Services (CIS) as undeliverable ("return to sender - attempted delivery - not known").¹ On July 2, 2002, the director denied the initial application due to abandonment. Since the application was denied due to abandonment there was no appeal available; however, the applicant was advised that he could file a motion to reopen within 30 days from the date of the denial of the application.

On November 11, 2002, the applicant submitted an untimely motion to reopen and reconsider the denial of his initial application (EAC 03 040 50313 relates). Nevertheless, the director reopened the proceeding regarding the applicant's initial TPS application, and (on March 25, 2003) requested the applicant to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods, as well as evidence to establish his nationality and identity. In response, the applicant submitted: a photocopy of an abstract of his birth certificate, with English translation; a 1999 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement, showing he earned \$4,616.02 in wages from _____ Silver Spring, Maryland; and, a Gigante Express money order receipt issued to him on March 26, 2000.

On October 16, 2003, the district director issued another notice to the applicant - in reference to his initial application - stating that he had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods and affording him an additional 30 days in which to provide evidence in support of that application. The record reflects that the notice was erroneously mailed to the applicant at an incorrect address: _____ Riverdale, MD 20737.

On January 12, 2004, the director denied the initial application. The denial decision does not clearly indicate the specific basis for the decision.²

¹ It is noted that the director again requested the applicant to appear for fingerprinting on July 16, 2003 for fingerprinting. The applicant appeared as requested.

² Pursuant to 8 C.F.R. § 103.3(a)(1)(i), when an officer [of Citizenship and Immigration Services (CIS), formerly, the Immigration and Naturalization Service (INS)] denies an application, the officer "shall explain in writing the specific

The director also denied the re-registration application on January 12, 2004, because the applicant's initial TPS application had been denied and the applicant was not eligible for re-registration for TPS.³ The applicant filed a timely appeal from the denial of the re-registration application on February 7, 2004.

The director's denial of the initial application will be withdrawn, and the application will be remanded for a new decision. Since the denial of the application for re-registration is dependent upon the adjudication of the initial application, the decision to deny the application for re-registration will also be remanded for further adjudication. The director 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 filed a second re-registration application on March 6, 2005 (WAC 05 157 70328 relates). That application was denied by the Director, California Service Center (CSC) on August 16, 2005. A decision on an appeal from that decision, filed by the applicant on August 24, 2005, will be provided under separate cover.

ORDER: The initial application is reopened, the district director's decision is withdrawn, and the application is remanded for a new decision. The application for re-registration is also remanded for further action consistent with a new decision on the initial application

reasons for denial."

³ It is noted that the denial of the re-registration application incorrectly notes the denial of the initial application as December 16, 2003, instead of January 12, 2004.