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U.S. Citizenship
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Services

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FILE:



Office: California Service Center

Date:

SEP 16 2008

[WAC 05 141 81796, as it pertains to
WAC 02 037 50446]

IN RE:

Applicant:



APPLICATION:

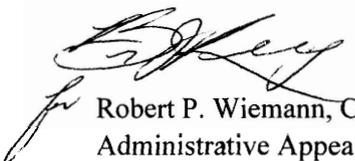
Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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 applicant's Temporary Protected Status was denied by the Director, California Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

The applicant is stated 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 record reveals that the applicant filed an initial TPS application on October 9, 2001, under receipt number WAC 02 037 50446. On February 18, 2005, the applicant filed the current TPS application under receipt number WAC 05 141 81796, and indicated that he is re-registering for TPS. It is noted that on April 12, 2006, the director sent the applicant a Notice of Intent to Deny (NOID) his TPS application. The purpose of the notice was for the applicant to submit evidence establishing his date of entry into the United States, his nationality, his continuous residence and continuous physical presence in the United States during the requisite periods, and the final court disposition regarding his arrests. However, the NOID was sent to the applicant's old address as he had indicated on his initial Form I-821, Application for Temporary Protected Status, at [REDACTED]

[REDACTED] The NOID was not returned by the U.S. Post Office as undeliverable. The applicant, however, did list his new address as [REDACTED] on his re-registration Form I-821 filed on February 18, 2005. On June 13, 2006, the director denied the applicant's initial TPS application because the applicant failed to timely respond to the NOID, and denied the applicant's re-registration application because his initial application had been denied. It is noted that both denial notices were mailed to the correct address.

The record of proceeding, in this case, clearly indicated that the Service sent the NOID to the incorrect address. The applicant claims not to have received the NOID. The case will, therefore, be remanded so that the director may accord the applicant an opportunity to submit the requested evidence in support of his TPS application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS. The director shall enter a new decision.

The director shall also search all files and electronic records to ensure that documentation in alien file [REDACTED] [REDACTED] pertains only to this applicant, [REDACTED], in La Palma, Chalatenango, El Salvador.

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 further action consistent with the above.