



U.S. Citizenship  
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: JUL 23 2007  
[WAC 05 155 72303]

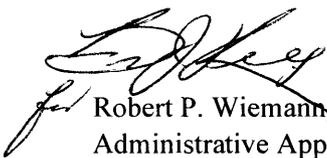
IN RE: Applicant: [REDACTED]

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 application was denied by the Director, Vermont Service Center. The applicant filed an appeal with the Administrative Appeals Office (AAO), which was remanded to the Vermont Service Center by the AAO for a new decision. The re-registration application was denied by the Director, California Service Center, and is now before the AAO on appeal. The case will be remanded.

The applicant is stated 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 record of proceedings reveals that the applicant filed a TPS application on July 19, 2002, under receipt number EAC 02 246 50754. On February 26, 2003, the applicant was requested to submit evidence establishing her continuous physical presence in the United States since March 9, 2001 and continuous residence in the United States since February 13, 2001. The applicant failed to respond to the request for evidence. The Vermont Service Center director denied the application on April 24, 2003, after finding the applicant abandoned his application.

On May 12, 2003, the applicant filed a motion to reopen the director's decision, which the director forwarded to the AAO as an appeal. On May 2, 2005, the AAO remanded the case to the Vermont Service Center because the director should have considered the applicant's appeal as a motion to reopen since the April 24, 2003 decision was based on abandonment.

The applicant filed a re-registration TPS application on March 4, 2005, under receipt number WAC 05 155 72303. The California Service Center denied the application on August 16, 2005, because the applicant's initial TPS application had been denied, and the applicant was therefore not eligible to apply for re-registration under TPS.

It is noted that the Vermont Service Center director has not yet taken any action on the applicant's May 12, 2003 motion and the AAO's May 2, 2005 decision. There is no appeal from a denial due to abandonment. 8 C.F.R. 103.2(b)(15). Since the original decision was not appealable to the AAO and the AAO remanded the case to the Vermont Service Center, the AAO has no jurisdiction to consider the appeal of the California Service Center's decision.

The Vermont Service Center director's decision on the initial application will be withdrawn and the application will be remanded for a new decision. The California Service Center director's denial of the application for re-registration is dependent upon the adjudication of the initial application. Since the initial application is being remanded, that decision will be remanded to the California Service Center 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.

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 initial application is reopened, the Vermont Service Center director's decision is withdrawn, and the application is remanded to the California Service Center for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.