

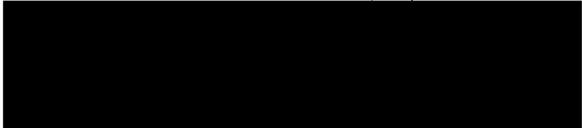


U.S. Citizenship
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: MAR 02 2007

[WAC 05 158 79109]

[WAC 01 181 55229]

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

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, California Service Center (CSC). A subsequent application for re-registration was denied by the Director, CSC, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO, and the case will be remanded for further consideration and action.

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 applicant filed an initial application for TPS under receipt number WAC 01 181 55229. The director denied the initial application on March 22, 2004, because the applicant had abandoned his application by failing to appear for fingerprinting.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 7, 2005, and indicated that he was re-registering for TPS.

The applicant has not previously been granted TPS because he had not appeared for fingerprinting. However, His fingerprint notice was mailed to his old address. The record shows that he subsequently appeared for fingerprinting at a Citizenship and Immigration Services office and that his prints were forwarded to the Federal Bureau of Investigation (FBI).

The applicant's FBI fingerprint results report shows that on October 18, 1999, he was arrested by the Police Department in Glendale, California, and charged within one count of theft. The report reflects that he was convicted of that charge by the Municipal Court of Glendale and that he received a jail sentence and probation. The report also reflects that on January 6, 2003, he was arrested by the Police Department in Rogers, Arkansas, and charged with aggravated assault. However, the final court dispositions of these arrests are not included in the record of proceeding.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document to establish his nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1).

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, the current decision will also be remanded to the director for further review pursuant to the new decision on the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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