



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **MAY 02 2007**

[WAC 05 228 87329
as it relates to LIN 01 160 50335]

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 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, Nebraska Service Center (NSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC), 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 for further consideration and action.

The applicant is 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 applicant filed an initial application for TPS under receipt number LIN 01 160 50335. The director denied the application due to abandonment on September 25, 2001, because the applicant failed to appear for a fingerprinting appointment pursuant to a notice dated May 9, 2001.

On appeal, counsel asserts that the applicant never received the notice to appear for her fingerprinting appointment and that the applicant appeared for a fingerprinting appointment sometime in the fall of 2001, pursuant to a subsequent notice.

A review of the record reveals that the NSC director's decision was in error. There is no copy in the file of the fingerprint notice dated May 9, 2001, that was mailed to the applicant. Therefore, it cannot be determined whether the notice was mailed to the correct address, or if the notice was mailed at all.

The director's denial of the initial application is in error and will be withdrawn; the application will be remanded for a new decision.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 dependant upon the adjudication of the initial application. Since the initial application is being remanded, the decision to deny the re-registration application will also be remanded to the 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 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.