

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

[Redacted]

MI

FILE: [Redacted] OFFICE: CALIFORNIA SERVICE CENTER DATE: **MAY 31 2007**
[Redacted] consolidated herein]
[WAC 05 207 82589 – as it relates to EAC 01 196 54821]

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:

[Redacted]

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 application was denied by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded.

The applicant claims 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 reveals that the applicant, under alien registration number [REDACTED] (now consolidated into alien registration file number [REDACTED]), filed a first Form I-821, Application for Temporary Protected Status, with the Vermont Service Center (VSC) on May 14, 2001, during the initial registration period (EAC 01 196 54821 relates). The director of the VSC denied that application on September 11, 2003; however, the director's decision did not clearly indicate the specific basis for the denial.¹ On October 14, 2003, the applicant filed an appeal from the denial of that application with the AAO. On November 7, 2005, the AAO remanded the case to the VSC director for issuance of a new decision explaining the specific reasons for the denial of the application. The record reflects that the director **still** has not issued a decision clearly indicating the specific reasons for the denial of the initial application.

The applicant filed the current Form I-821 with the CSC on April 25, 2005, and indicated that he was re-registering for TPS. The CSC director denied the application on the basis that the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

Since the director's denial of the application for re-registration is dependent upon the adjudication of the initial application, and the appeal of the denial of the initial application was remanded for entry of a new decision, the current appeal will also be remanded 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.

It is noted that the applicant was apprehended entering the United States without inspection on August 29, 1998. At that time, he stated that he was a native and citizen of Mexico. An Immigration Judge in Houston, Texas, subsequently ordered the applicant deported from the United States to Mexico on January 4, 1999. That order remains outstanding.

It is also noted that the record contains a copy of the applicant's claimed El Salvadoran birth certificate, with English translation, indicating his date and place of birth as June 14, 1969 in Canton Penon, El Salvador. However, the applicant claimed on his initial TPS application that he was born on June 14, 1976, in Morazan, El Salvador. The record also appears to contain altered evidence regarding the applicant's residence and physical presence in the United States.

¹ When an officer denies an application, "the officer shall explain in writing the specific reasons for denial." 8 C.F.R. § 103.3.

Finally, the record reflects that the applicant was found guilty on December 10, 2003, in New Jersey, of one count of Public Record Fraud, in violation of 2C:21-3B.

As always in these proceedings, the burden of proof remains solely on the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The case is remanded to the director, Vermont Service Center, for entry of a new decision on the initial application.