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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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M

[REDACTED]

FILE:

[WAC 01 218 51775]
[WAC 05 208 86256]

OFFICE: CALIFORNIA SERVICE CENTER

DATE:

OCT 17 2007

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 office that originally decided your case. Any further inquiry must be made to that office.

Handwritten signature of Robert P. Wiemann in black ink.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further action.

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 filed a TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 01 218 51775. The director denied that application on March 15, 2004, because the applicant had failed to submit the certified final court disposition of his arrest by the Crossville, Tennessee, Police Department on September 27, 1999; namely, (1) driving without a license, and (2) leaving the scene of an accident. The director noted that in response to his request to submit the court disposition, the applicant submitted the "DBI TENPRINTER Applicant Information Worksheet;" however, he failed to submit the requested certified court disposition.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 27, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts that he has no idea why he is being informed that on March 15, 2004, he did not establish *prima facie* eligibility since he has not received any notice from CIS. He requests that the notice be re-sent to him.

As provided in 8 C.F.R. § 244.10(c), the decision of the director to deny TPS shall be in writing served in person or by mail to the alien's most recent address provided to the Service and shall state the reason(s) for the denial, and the alien shall be given written notice of his or her right to appeal a decision denying TPS.

A review of the record of proceeding indicates that the director's Notice of Intent to Deny (NOID) dated January 28, 2004, and Notice of Decision dated March 15, 2004, were both mailed to the applicant's former address [REDACTED] CIS database, however, indicates that a change of address was received and was made on April 10, 2002. Additionally, it is noted that in response to the director's NOID, and prior to the director's Notice of Decision, issued on March 15, 2004, the applicant indicated that he was residing at [REDACTED]. The applicant's return address on the envelope also listed this address.

Therefore, the director's decision to deny the applicant's initial application will be withdrawn. The case will be remanded to enable the director to request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS, specifically, the final court dispositions of all of his arrests.

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, that decision will 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 case is remanded for appropriate action consistent with the above discussion and entry of a new decision.