

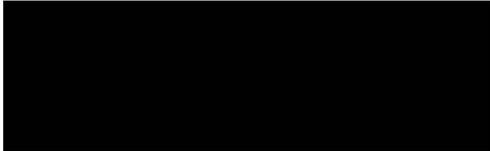


U.S. Citizenship
and Immigration
Services

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DEC 29 2006

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 01 151 52004]

[WAC 05 224 82935]

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

The applicant claims to be 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 WAC 01 151 52004. The director denied the initial application on August 3, 2004, after determining that the applicant failed to appear for her fingerprinting appointment and, therefore, had abandoned her application. The applicant filed a Motion to Reopen her application claiming that she moved and did not receive the notice to have her fingerprints taken on February 25, 2004. The director granted her motion and reopened her application on September 30, 2004. The application was denied for the second time on February 7, 2005 for abandonment because the applicant failed to appear for her fingerprint appointment scheduled for December 17, 2004.

However, the record of proceedings reveals that the director's decision was in error. Specifically, the record indicates that the applicant has already been fingerprinted on three separate occasions, including a current fingerprint report that is still valid.

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, 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.

Although the applicant has not yet established her eligibility for TPS, her initial application has been reopened and is currently pending adjudication; therefore, the applicant is eligible for Temporary Treatment Benefits under 8 C.F.R. § 274a.12(c)(19).

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.