



U.S. Citizenship
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Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 111 74798]

Date: JUL 28 2006

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.

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

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 matter will be remanded.

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 the current Form I-821, Application for Temporary Protected Status, on January 18, 2005, and indicated that she was re-registering for TPS or renewing his temporary treatment benefits.

The director denied the application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration or renewal of his temporary treatment benefits.

The record reveals that the applicant filed her initial TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 01 169 56024. The Director of the Texas Service Center denied that application on October 26, 2004, due to abandonment because the applicant failed to appear to be fingerprinted or request another appointment to be fingerprinted. However, the record reveals that both the fingerprint appointment notice and the denial decision were mailed to an outdated address. Additionally, the record also reveals that the applicant subsequently was fingerprinted and the FBI criminal history printout dated February 15, 2005, does not reflect a criminal record that would bar the applicant from receiving TPS.

Since the applicant appears to have overcome the sole ground for the denial of her initial application for TPS, that decision has been withdrawn and the application was remanded to the director for further adjudication. The director's denial of the current application for re-registration/renewal is dependant upon the adjudication of the initial application; therefore, the current application will also be remanded to the director for further action.

Although the applicant has not yet established his eligibility for Temporary Protected Status, 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 case is remanded for further action consistent with the director's new decision on the initial application.