



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 15 2006

[WAC 05 118 70256]

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.

Cindy N. Gomez

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 on appeal. The appeal will be sustained and the application will be approved.

The applicant is 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 on August 21, 2001, during the initial registration period under CIS receipt number SRC 01 259 55083. The Texas Service Center (TSC) Director denied that application on August 18, 2004, after determining that the applicant had failed to appear for her scheduled fingerprinting appointment. The applicant did not file an appeal from the denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 26, 2005, and indicated that she 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 submits additional evidence relating to her continuous residence and continuous physical presence in the United States during the requisite periods, and copies of her initial application for TPS.

The Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant's fingerprints were processed by the FBI on November 13, 2001, prior to the TSC's initial denial decision, and again on March 28, 2005. The FBI report reflects in both instances that the applicant was identified as not having a criminal or other record as of those dates. In addition, it is noted that the fingerprint notification specifically identified by the director as the basis for the denial of the TPS application, was mailed to the applicant's 1999 address rather than the address she had most recently provided. It is determined that the denial of the initial TPS application was made in error, as the applicant has twice appeared for fingerprinting and has been found to have no record.

Because the denial was made in error, the decision shall be withdrawn and the initial application shall be considered as still pending. Therefore, the applicant is still eligible to re-register for extension of TPS benefits, and the sole reason for denial stated by the CSC Director has been overcome.

The record contains sufficient evidence of the applicant's identity, nationality, continuous residence, and continuous physical presence in the United States. She has established that she has met the requirements described in 8 C.F.R. §§ 244.2(a), (b), and (c). Therefore, the director's decision will be withdrawn and the application will be approved.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The appeal is sustained and the application is approved.