



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE:

[REDACTED]

Office: California Service Center

Date: APR 30 2007

[WAC 05 214 76213]

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 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. 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 is stated 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 record reveals that the applicant filed an initial TPS application on April 25, 2001, under CIS receipt number SRC 01 195 58896. The director denied that application due to abandonment on August 11, 2004, because the applicant failed to establish her eligibility for TPS. The director noted that the applicant failed to provide a photo identification as requested in the director's request for evidence, dated May 4, 2004. A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen within the requisite period.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 2, 2005, and indicated that she was filing a re-registration application. The director denied that 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 for TPS.

However, the record of proceedings reveals that the director's initial denial decision was in error. On appeal, counsel states that denial of the re-registration application is inappropriate when the applicant has a pending or approved I-821. With the appeal, counsel submits a copy of a case status printout from the CIS website for the initial application filed under CIS receipt number SRC 01 195 58896, which indicated CIS had received a response to the previous request for evidence on February 10, 2003. However, the subsequent denial notice, issued on August 11, 2004, stated that the applicant had not responded to the request for evidence, and the director denied the application for abandonment.

The director's denial of the initial application 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 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 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.