



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **DEC 10 2007**

[WAC 05 267 70023]

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 California Service Center. Any further inquiry must be made to that office.

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 (AAO) on appeal. The appeal will be sustained because the applicant's previous appeal was sustained and her TPS application was approved, under separate cover.

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 on April 24, 2001, the applicant filed her initial application for TPS with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS) under receipt number EAC 01 188 54402. The Vermont Service Center (VSC) Director denied that application due to abandonment on July 29, 2003, after determining that the applicant had failed to respond to a request for additional evidence to establish her eligibility for TPS. The applicant did not file a motion to reopen the denial decision.

The record, however, also reflects that the request for additional evidence and the denial decision on the initial TPS application were mailed to an incorrect address. The documents indicate that they were mailed to the applicant's address in New York as provided on her initial April 24, 2001, TPS application. However, the applicant had provided a new address in Texas on her application for extension of temporary treatment benefits that was stamped as received by the Texas Service Center on November 8, 2002, prior to the issuance of the request for additional evidence and the final denial decision.

The record indicates that the denial due to abandonment on the initial TPS application was made in error. Because the denial due to abandonment was made in error, the decision was withdrawn by the AAO and the initial application was approved. Therefore, the subsequent application [SRC 04 082 54699], filed on January 26, 2004, was properly viewed as an application for re-registration, rather than a new application under the provisions of late initial registration. Under separate cover, the AAO Chief determined that the sole reason for denial stated by the Texas Service Center Director had been overcome. Therefore, the AAO Chief withdrew the denial decision, sustained the prior appeal [SRC 05 031 52849] and approved the TPS application.

Therefore, this appeal [WAC 05 251 50883] will be sustained, as the applicant's previous appeal was sustained and her application for TPS was approved.

Additionally, for purposes of re-registration, this subsequent filing shall be considered as the applicant's compliance with the re-registration provisions of TPS.

It is noted that the applicant has another record of proceedings under file number [REDACTED]. This record contains a Warrant of Removal/Deportation, issued on December 17, 1999, at Dallas, Texas, following the final order of removal *in absentia* to El Salvador issued by the Immigration Judge, Houston, Texas, sitting in Oklahoma City, Oklahoma, on December 6, 1999. Because the applicant is eligible for TPS benefits, she is not subject to removal under this order at this time.

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, based upon the applicant's previously sustained appeal and TPS approval.