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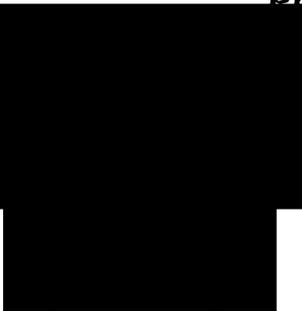
U.S. Citizenship
and Immigration
Services

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DEC 13 2007

FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

[EAC 02 067 53360]
[WAC 05 123 74086]

IN RE:

Applicant:

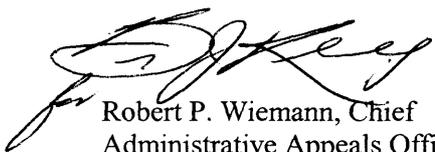


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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, Vermont Service Center (VSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC), and is currently before the Administrative Appeals Office on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, 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 during the initial registration period on December 14, 2001, under receipt number EAC 02 067 53360. The VSC director denied that application on July 28, 2003, because the applicant had failed to respond to a request dated May 19, 2003, to submit evidence to establish continuous physical presence in the United States from March 9, 2001, to the date of filing the application. Although the applicant was advised that he could appeal the director's decision by filing a completed Form I-290B, Notice of Appeal to the Administrative Appeals Office, within 30 days of the director's decision, the record does not contain evidence that the applicant filed a Form I-290B.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 31, 2005, and indicated that he was re-registering for TPS.

The CSC director denied the re-registration application on March 14, 2006, 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 asserts that his wife died in an automobile accident on May 27, 2001, he tried to work and raise his children alone, but because he could no longer handle it alone, he and his children moved from Virginia to California so that his sister could help him with the children. He submits a copy of his wife's death certificate issued by the State of Virginia. He also submits a copy of Form I-94 arrival and departure card, indicating that on June 19, 2001, the applicant was paroled into the United States until June 18, 2002. The file contains Form I-512, Authorization for Parole of an Alien into the United States, approved on June 6, 2001.

The record indicates that the applicant filed Form I-589, Request for Asylum and for Withholding of Deportation, on September 20, 1995 [file number ██████████]. On January 18, 2005, the asylum application was administratively closed because the applicant had failed to appear for a scheduled interview at the Anaheim, California, Asylum Office on December 6, 2004.

The applicant, on appeal, submits evidence to establish his residence and physical presence in the United States. This evidence, in conjunction with other evidence contained in the record of proceeding, is sufficient to establish that the applicant has met the continuous residence and continuous physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). There are no other known grounds of ineligibility; therefore, the director's decision will be withdrawn and the initial application will be approved.

The burden of proof is upon the applicant to establish 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 that burden.

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 approved, the appeal from the denial of the re-registration will be sustained and that application will also be approved.

ORDER: The application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration applications are both approved.