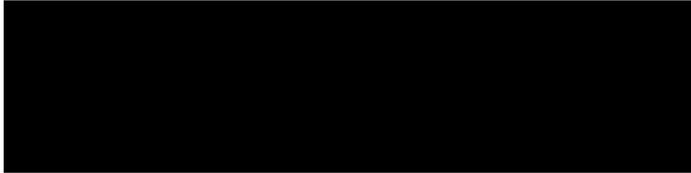




U.S. Citizenship  
and Immigration  
Services

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prevent clearly unwarranted  
invasion of personal privacy



*M*

FILE:



Office: California Service Center

Date: FEB 06 2007

[WAC 05 221 75283]

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 M. Gomez for*

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The initial application was denied by the Director, Texas 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 applications will be approved. The appeal will be sustained.

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 record reveals that the applicant filed an initial Form I-821, Application for Temporary Protected Status, on July 9, 1001, under CIS receipt number SRC 01 244 54427. The director denied that application on March 4, 2003, because the applicant failed to respond to a request for evidence wherein the director requested that the applicant submit evidence to establish his identity and nationality. The director noted that the applicant failed to respond to a notice of intent to deny, dated January 20, 2003. The director, therefore, considered that application abandoned. 8 C.F.R. § 103.2(b)(13). 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.

The applicant filed the current Form I-821, on May 9, 2005, under CIS receipt number WAC 05 221 75283, and indicated that he was re-registering for TPS.

The director denied this application 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 contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any grounds that would bar the applicant from receiving TPS. In this case, an identification card from the applicant's country is not available. It is noted that the applicant entered the United States in 1998, when he was 4 years old. The applicant submitted his elementary school records (with an unclear photo ID) from 2000 – 2005, which indicate that he was in Kindergarten in 2000, and that the only available photograph identification he had was the Kindergarten photograph (which is attached to his elementary school record). The record of proceedings contains sufficient evidence to establish the applicant's identity and nationality, his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001 to the date of filing his application. Therefore, the director's decision will be withdrawn and the initial application will be approved.

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.

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. Here, the applicant has met this burden.

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