



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUL 02 2007

[WAC 05 213 70049 as it relates to WAC 01 172 55925]

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. Horn
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial 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 on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office. The appeal will be sustained and the applications will be approved.

The applicant is a native and citizen 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 March 30, 2001, under receipt number WAC 01 172 55925. The director denied that application on July 21, 2004, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting on February 24, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 29, 2005, and indicated that he 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 requests reconsideration of his application. He submits additional evidence to establish continuous residence and continuous physical presence in the United States during the qualifying period.

The record indicates that the applicant subsequently was fingerprinted and the Federal Bureau of Investigation (FBI) fingerprint results report dated November 18, 2005, does not reflect a criminal record that would bar the applicant from receiving TPS.¹ The applicant, therefore, has overcome the sole ground for the denial of his initial application for TPS. Additionally, the record of proceeding contains sufficient evidence to establish the applicant's eligibility for TPS and also does not reflect any grounds that would bar the applicant from receiving TPS. 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.

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.

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.

¹ It is noted that a previous FBI fingerprint results report dated September 3, 2001, also reflected a non-criminal record.