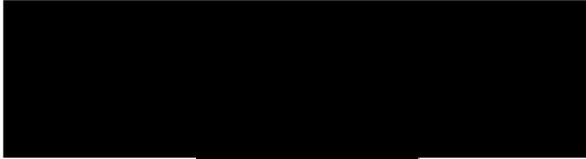




U.S. Citizenship
and Immigration
Services

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FILE: [Redacted] Office: California Service Center
[WAC 05 221 75783 as it relates to SRC 01 186 64965]

Date: JUL 06 2007

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: 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 (TSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC), 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. The appeal will be sustained and the applications will be approved.

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 TPS application on April 16, 2001 under receipt number SRC 01 186 64965. The director, TSC, denied that application, on June 30, 2004, because the applicant failed to respond to a second request for evidence. It is noted that in the request for evidence, issued February 13, 2004, the director specifically requested that the applicant submit a photo identification. The director later 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, Application for Temporary Protected Status, on May 9, 2005, under CIS receipt number WAC 05 221 75783, and indicated that he was re-registering for TPS.

The director denied that application on August 16, 2005, because the applicant's initial TPS application had been denied because the applicant did not establish prima facie eligibility for TPS.

On appeal, the applicant states only that he believes that his TPS application was denied because of fingerprinting, that when he reported for fingerprinting he had a cut on his finger and had to be rescheduled twice. With the appeal, the applicant submits a photocopy of an identification card issued by the Texas Department of Public Safety.

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. The record of proceedings reveals that the applicant submitted a State-issued identification photo identification card. It is noted that the record contains the applicant's elementary school records from El Salvador. The record also contains the applicant's birth certificate in Spanish, and an English translation. Accordingly, the applicant has sustained his burden of establishing his nationality and his identity under 8 C.F.R. § 244.9(a)(1). Also, a Federal Bureau of Investigations fingerprint results report conducted in connection with the re-registration application indicates no adverse information. The record of proceeding also contains sufficient evidence to establish the applicant's 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.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

ORDER: The initial 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.