

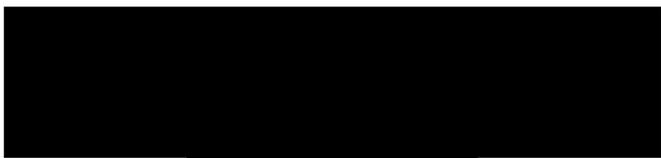
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**U.S. Citizenship
and Immigration
Services**

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invasion of personal privacy**

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: JUL 19 2007

[LIN 03 031 50057 as it relates to LIN 01 147 51578]

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.

Cindy N. Gomez

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Nebraska Service Center (NSC). A subsequent application for re-registration denied by the Director, NSC, was before the Administrative Appeals Office (AAO) on appeal. On August 15, 2005, the Chief, AAO, remanded the matter to the Director, NSC, because the evidence contained in the file was not sufficient to support the director's decision of denial. The NSC Director again denied the re-registration application and forwarded it to the AAO on certification. The case will be *sua sponte* reopened, the appeal will be sustained 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 applicant filed an initial application for TPS under Citizenship and Immigration Services receipt # LIN 01 147 51578 on March 26, 2001, that was denied by the director on December 13, 2001, because the applicant had abandoned her application by failing to appear for fingerprinting after being served a notice dated July 17, 2001 scheduling her to appear for fingerprinting at a designated Service office.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on September 27, 2002, and indicated that she 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. The director also found that although the applicant had provided sufficient evidence to show that she had entered the United States prior to February 13, 2001, she had not provided sufficient evidence of continuous residence in the United States since February 13, 2001 and continuous physical presence since March 9, 2001. The director found that there "is a significant gap of time where there is no evidence submitted from 07/2001 to 03/12/2002. There is also another gap from 05/23/02 to 09/27/2002."

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

The record reflects that the applicant submitted copies of her Internal Revenue Service Form 1040EZ, U.S. Income Tax Return for Single and Joint Filers With No Dependents for 2002 along with her State of Colorado Form 104, Colorado Individual Income Tax Return for 2002. Furthermore, on June 29, 2001, in response to the NSC Director's May 31, 2001, request for evidence, the applicant submitted a copy of an undated letter from her landlord confirming that she had been paying rent and living at an address in Colorado since October, 2000. She also submitted a copy of an employment letter dated March 21, 2001, from the Payroll Manager of Southern Services Corporation confirming that the applicant worked as a janitorial worker at the St. Regis Hotel in Aspen, Colorado, from October 23, 2000. Additionally, she submitted a letter from an English as a Second Language Assistant Professor at Colorado Mountain College dated March 28, 2001 indicating that she was a student of the program and had been since November 1, 2000. She also submitted copies of pay slips for employment in this country by Sure Service Corporation from October 2000 to June 2001. It is determined that the applicant has provided sufficient evidence to establish her continuous residence and continuous physical presence during the requisite time periods. 8 C.F.R. § 244.2 (b) and (c).

As stated above, the director denied the initial application after determining that the applicant had abandoned her application by failing to respond to a July 17, 2001, request to appear for fingerprinting. The record does not contain a copy of a fingerprint notification dated July 17, 2001. However, the applicant's fingerprints were taken and sent to the Federal Bureau of Investigation (FBI) on December 11, 2002, May 31, 2005, and on April 25, 2006. The applicant's FBI fingerprint results report identified no derogatory information.

The applicant has satisfied all other eligibility requirements for TPS. Therefore, the application is 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 above requirements and is eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The NSC Director's decision on certification is withdrawn, the denial of the initial application is withdrawn, both applications are approved, and the appeal is sustained.