



U.S. Citizenship
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Services

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AM

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

MAR 02 2007

[WAC 05 221 71627]

[SRC 01 228 64808]

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.

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, AAO, and the case will be remanded for further consideration and action.

The applicant is stated to be 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 which was denied by the director on September 23, 2004, after determining that the applicant had abandoned her application by failing to respond to a request to appear for fingerprinting.

The applicant filed the current application, on March 7, 2005, 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.

As stated above, the director denied the initial application after determining that the applicant had abandoned his application by failing to respond to a request to appear for fingerprinting. However, the Fingerprint Notification sent to the applicant was dated May 3, 2004, for an appointment on April 23, 2004, thereby predating the notice, and making the applicant's compliance impossible. The record reflects that her fingerprints were taken and sent to the Federal Bureau of Investigation, (FBI), by Citizenship and Immigration Services on July 19, 2005 and on June 18, 2006. The applicant's FBI fingerprint report results identified no derogatory information.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that she is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document to establish her nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1).

The director's denial of the initial application will be withdrawn and the application will be remanded for a new decision. The director's denial of the application for re-registration is also remanded for further review as it is dependent upon the adjudication of the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

As always in these proceedings the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The initial application is reopened, the director's decision is withdrawn and the application is remanded. The re-registration application is remanded for further review consistent with the director's new decision on the initial application.