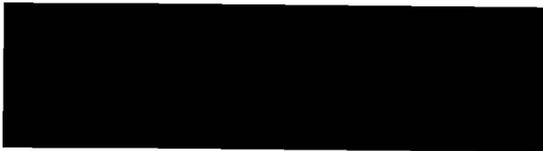




U.S. Citizenship
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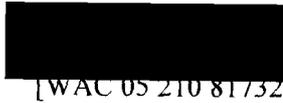
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prevent clearly unwarranted
invasion of personal privacy



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FILE:



Office: California Service Center

Date: **MAY 11 2007**

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The 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 (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the case will be remanded for further consideration and action.

The applicant is stated to be 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 March 30, 2001, under CIS receipt number SRC 01 163 55154. The director denied that application, on April 29, 2004, due to abandonment because the applicant failed to respond to a request for evidence to establish her eligibility for TPS. The director noted that the applicant failed to respond, within 12 weeks, to a January 28, 2004 request for additional information to establish the applicant's identity and nationality. The director, therefore, considered that application abandoned. 8 C.F.R. § 103.2(b)(13). It is noted that the director's denial decision also referenced a re-registration application, filed on April 17, 2002, under receipt number SRC 02 151 54886, and denied that application also simultaneously with the initial application. 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 April 29, 2005, under CIS receipt number WAC 05 210 81732, and indicated that she 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 she is missing tax returns for 2002 – 2004, and that she will submit the returns after "9/16/05". With the appeal, in an attempt to establish eligibility for TPS, the applicant submits copies of the following: 1) an identification card issued by Texas Department of Public Safety; 2) an EAD card valid from September 17, 2003 through March 9, 2005; 3) a completed change of address form; and 4) a case CIS status for an I-290, Notice of Appeal to the Commissioner.

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.

However, the record of proceedings reveals that the applicant timely submitted a response to the request for evidence. The record of proceedings indicate that the response was lost due to no fault of the applicant. Therefore, the director erred in denying the initial application for abandonment.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. 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 remanded, that decision will be remanded to the

director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Salvadorans.

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 for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.