

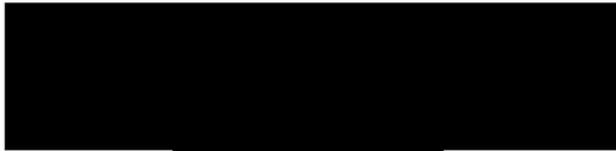
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U.S. Department of Homeland Security
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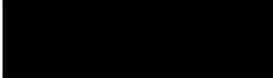
U.S. Citizenship
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Services

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FILE:



OFFICE: California Service Center

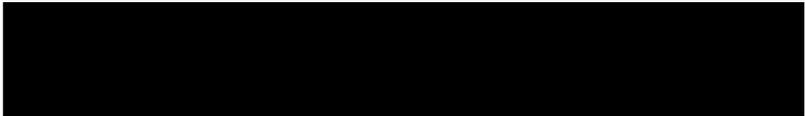
DATE:

MAY 16 2007

[WAC 05 147 70653]

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:



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 for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC). The application is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

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 his initial TPS application on April 30, 2002, under Citizenship and Immigration Service (CIS) receipt number SRC 02 161 54577. The Director, Texas Service Center (TSC), denied the application on November 26, 2004, due to abandonment because the applicant failed to appear for his fingerprint appointment. On May 20, 2005, counsel, on behalf of the applicant, filed a motion to reopen the TSC director's decision. The TSC director subsequently approved the initial application on June 7, 2005, and notified the applicant and counsel accordingly.

The applicant filed this Form I-821, Application for Temporary Protected Status, as a re-registration on February 24, 2005. The director denied the application because CIS records indicated that the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

(iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

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.

On appeal, counsel, on behalf of the applicant, states he also submits a motion to reopen the TSC director's previous decision to deny dated November 26, 2004. Counsel also states that he will submit a brief and additional evidence within 30 days.

A review of the record of proceedings and CIS' computer record systems reflects that the applicant's TPS status was approved by the TSC director on June 7, 2005. Given that the applicant complied with the fingerprinting requirements, that the results were NON-IDENT, and that the record fails to reflect any other ineligibility issues, the CSC director's decision to deny the instant application will be withdrawn and the application will be approved.

An alien applying for temporary protected status has the burden of proving 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 this burden.

ORDER: The appeal is sustained and the application is approved.