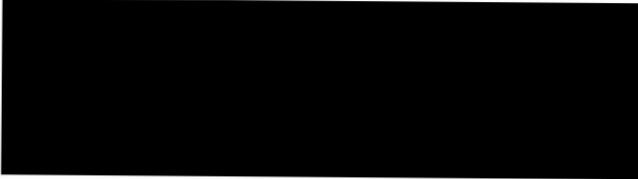




U.S. Citizenship  
and Immigration  
Services

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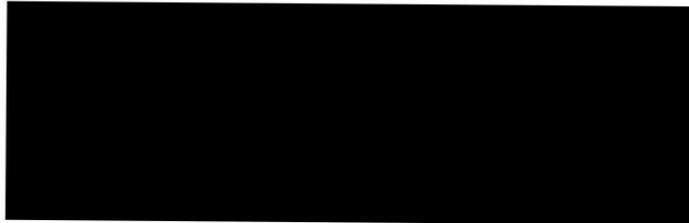
[WAC 05 222 73056]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: MAY 21 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:



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.

for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC). A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

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 director denied the re-registration application on December 1, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant appealed the director's decision to the AAO on December 22, 2005. The AAO reviewed the record of proceeding and noted that the applicant's initial TPS application [WAC 01 168 51270] was denied by the CSC director on August 9, 2004, after determining that the applicant had abandoned her application by failing to submit evidence, as had been requested on February 13, 2004, to establish her continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application, and documentation to establish her identity. The AAO further noted that the applicant instead provided a copy of her Employment Authorization Card and stated she wanted her initial application closed. The AAO also noted that the applicant had not submitted sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the requisite period. The AAO dismissed the appeal on August 4, 2006.

On motion, counsel asserts that the denial of the applicant's case was erroneous in that she never withdrew her original I-821 and she was not given a notice of the request for evidence issued by the USCIS. She states that since the applicant did not have an opportunity to submit the requisite documentation to support her TPS application she is submitting additional evidence. Counsel submits a copy of an El Salvadoran passport issued to the applicant on April 14, 2003, in Los Angeles, California, and additional evidence in an attempt to establish residence and physical presence in the United States. She also submits a statement from the applicant indicating that on August 4, 2006, she "received a final decision stating that her status was terminated either due to my failure to respond to a request for evidence or due to my own request to withdraw my application. Nevertheless, I never became aware that I needed to submit any further evidence." The applicant concluded that she never wanted or requested that her application for TPS be withdrawn as such action would have been devastating to her.

A review of the record indicates that the CSC director's Notice of Intent to Deny (NOID) dated February 13, 2003, was mailed to the applicant at her address ( [REDACTED] ). The NOID accorded the applicant an opportunity to submit additional evidence to support her TPS application, namely: (1) evidence to show that the applicant had continuously resided in the United States since February 13, 2001, and that she had been continuously physically present from March 9, 2001, to the date of filing the application; and (2) evidence to establish her identity. Despite counsel's and the applicant's assertions, the applicant did receive the NOID and she did respond to the NOID on February 28, 2003, by submitting a handwritten statement requesting to "[P]lease disregard the first application with receipt #WAC0116851270 and close this file completely." The applicant also wrote on the coversheet of the NOID dated February 13, 2003, to "[P]lease close this file. This was the wrong application sent to the wrong address."

However, although the director noted that the applicant had requested that her initial TPS application be withdrawn, the director did not base his denial on the applicant's request but, rather, it was based on the applicant's failure to submit the requested evidence.

Pursuant to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be proved at the reopened proceedings and be supported by affidavits or other documentary evidence. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4). A review of the record reveals that the applicant has presented no new facts or other documentary evidence in support of the motion to reopen, and to establish that she was eligible for re-registration, and that she had established her qualifying continuous residence and continuous physical presence during the requisite periods, as addressed by the AAO.

Accordingly, the motion will be dismissed, and the previous decision of the AAO will be affirmed.

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 motion is dismissed. The decision of the AAO dated August 4, 2006, is affirmed.