

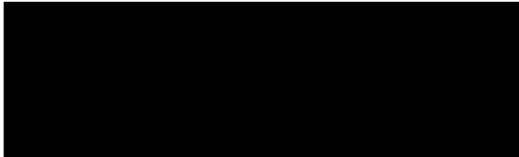
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



MA

NOV 01 2007

FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

[WAC 01 184 57917]

[WAC 05 224 77706]

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 initial application was denied by the Director, California Service Center. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the application will be approved. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office on appeal. 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 director denied the initial TPS application on February 27, 2004, after determining that the applicant had abandoned her application by failing to appear for fingerprinting on October 31, 2003. On March 23, 2004, the applicant filed a motion to reopen her case. The director dismissed the motion on June 16, 2004, because the motion to reopen or reconsider did not state reasons for reconsideration and was not supported by pertinent precedent decisions to establish that the decision was based on an incorrect application of law or CIS policy. 8 C.F.R. § 103.5(a)(3).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 2005, and indicated that she was re-registering for TPS. The director denied the re-registration application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, counsel asserts that the TPS application was erroneously denied in 2004 for failure of the applicant to attend her fingerprint appointment, because neither the applicant nor a responsible party residing at her address received the notice. The record indicates that on October 7, 2003, the applicant was requested to appear for fingerprinting on October 31, 2003. That notice, including the director's denial decision dated February 27, 2004, were mailed to the applicant's address at that time [REDACTED]

[REDACTED] There is no evidence that the notices were returned to CIS as undeliverable.

The record, however, indicates that the applicant subsequently was fingerprinted and the Federal Bureau of Investigation fingerprint results reports dated June 8, 2005 and May 1, 2006, do not reflect a criminal record that would bar the applicant from receiving TPS. The applicant, therefore, has overcome the sole ground for the denial of her initial application for TPS. The record of proceeding contains sufficient evidence to establish the applicant's eligibility for TPS and also does not reflect any grounds that would bar the applicant from receiving TPS. Therefore, the director's decision will be withdrawn and the initial application will be 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.

ORDER: The application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration application are both approved.