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



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: NOV 26 2007
[WAC 05 218 77569 as it relates to WAC 01 184 53070]

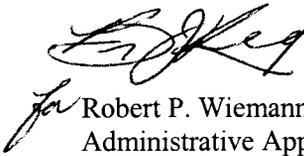
IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:
[REDACTED]

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 initial application was denied by the Director, California Service Center (CSC). The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office (AAO). A subsequent application for re-registration was denied by the Director, CSC, and is currently before the AAO on appeal. The appeal will be sustained and the applications 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 record reveals that the applicant filed a TPS application during the initial registration period on April 12, 2001, under receipt number WAC 01 184 53070. The director denied that application on September 1, 2004, after determining that the applicant had abandoned her application by failing to appear for fingerprinting on March 11, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 6, 2005, and indicated that she was re-registering for TPS.¹ 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 applicant never received the denial decision of the initial TPS application. A review of the record indicates that the Fingerprint Notification dated January 29, 2004, and the director's decision to deny the application dated September 1, 2004, were both mailed to the applicant's most recent address at that time [REDACTED]. There is no evidence in the record that the applicant had advised CIS of a change of her address, nor is there 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 May 31, 2005 and April 30, 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. Additionally, 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.

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 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. The appeal is sustained.

¹ The applicant also filed TPS re-registration applications in 2002, 2003, 2005, and now, 2006.