



U.S. Citizenship
and Immigration
Services

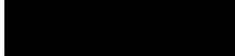
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FILE:



Office: California Service Center

Date: OCT 11 2007

[WAC 05 140 78630]

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 California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's initial application for Temporary Protected Status was denied by the Director, Texas Service Center (TSC). 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 case will be remanded for further consideration and action.

The applicant is stated to be 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 an initial TPS application on March 22, 2001, under CIS receipt number SRC 01 149 61474. The director, TSC, denied that application due to abandonment, on July 27, 2002, because the applicant failed to respond, within 30 days, to a June 27, 2002 notice of intent to deny requesting that she submit a photo identification, and evidence to establish her continuous physical presence in the United States from March 9, 2001 to the date of filing. 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 a subsequent Form I-821, Application for Temporary Protected Status, on September 19, 2002, under CIS receipt number SRC 03 111 53348, and indicated that she was re-registering for TPS. The director denied the re-registration application on January 29, 2003, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS. A subsequent untimely appeal was rejected by AAO, in a decision issued simultaneously with this decision. The Chief, AAO determined that the appeal met the requirements of a motion to reconsider, and, therefore, returned the matter to the California Service Center director with instructions for the director to consider the untimely appeal as a motion to reconsider.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 17, 2005, under CIS receipt number WAC 05 140 78630, and indicated that she was re-registering for TPS. The Director, California Service Center, denied this application on March 24, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

As noted above, the AAO returned an appeal of a denial of a previous re-registration application to the California Service Center director with instructions for the director to consider the untimely appeal as a motion to reconsider. The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the previous re-registration application. Since the previous re-registration application is being returned, the re-registration decision will also 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 El 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 re-registration application is remanded for further action consistent with the director's new decision on the previous re-registration application.