

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

M,

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

SEP 28 2007

[LIN 03 021 50284 as it relates to
LIN 02 185 50172 and LIN 01 152 52478]

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 for

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Nebraska Service Center. 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 initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the case will be remanded for further consideration and action.

The applicant is a 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 treated the re-registration application as an application for late initial registration and denied the application because the applicant had failed to establish eligibility under the late initial registration provisions.

The applicant had filed an initial TPS application during the registration period on March 29, 2001, under another record, [REDACTED]. The director denied the initial application as abandoned on October 7, 2002, after determining that the applicant had failed to appear for fingerprinting. The record of proceedings reveals that the applicant was fingerprinted on November 26, 2002.¹ Therefore, the applicant did overcome the basis for denial on the initial application. The subsequently filed re-registration application was treated as a late initial registration, and denied on June 4, 2003, because the director determined that the applicant had failed to establish that she was eligible for filing her TPS application after the initial registration period. The basis for this denial also is overcome because the applicant did file a TPS application during the initial registration period.²

However, the Federal Bureau of Investigation's fingerprint results report indicates that the applicant was arrested by the Boulder, Colorado, Police Department, on December 2, 2000 for "Assault in the 3rd Degree." The final court disposition was neither requested nor provided.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. 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 remanded, that decision will be remanded to the director for further adjudication.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

¹ In addition, in conjunction with a Form I-589 application, the applicant was also fingerprinted on October 5, 2000, and May 24, 2005.

² On appeal of the June 4, 2003 decision, the applicant states that she is eligible for late initial registration because her husband is an alien currently eligible for TPS. The applicant also submits copies of her husband's employment authorization cards. In addition, the record contains a copy of the applicant's marriage license. The marriage license establishes that the applicant was married during the requisite TPS registration period. However, the copies of the employment authorization cards and an electronic check of CIS records indicate that the applicant's husband was granted employment authorization as an asylum applicant. The applicant's husband never applied for TPS and, therefore, does not qualify as a TPS registrant. Consequently, the applicant would have derived no eligibility for late initial registration for TPS as she is not the spouse of a TPS-eligible alien.

ORDER: The initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.