



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: **JAN 17 2008**

[WAC 05 210 80033 as it relates to
[LIN 01 159 52087]

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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Nebraska 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 (AAO) on appeal. The appeal will be sustained and the application will be approved.

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 applicant appears to be represented; however, the individual listed, as a representative on appeal is not authorized under 8 C.F.R. 292.1 or 292.2 to represent the applicant. The decision will be furnished only to the applicant.

The applicant filed an initial application for TPS on April 5, 2001, during the initial registration period, under receipt number LIN 01 159 52087. The director denied the initial application as abandoned on September 17, 2001, after determining that the applicant had failed to appear for fingerprinting.

However, the record of proceedings reveals that the applicant was fingerprinted on September 19, 2001, with results indicating that she was apprehended by the United States Border Patrol in 1993, and placed in removal proceedings.

The record of proceedings contains sufficient evidence to establish the applicant's eligibility for TPS and 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 Therefore, the director's decision will be withdrawn and the initial application will be approved.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.

It is noted that a Warrant of Removal was issued at San Francisco, California on April 10, 2001, and remains outstanding. This warrant was issued after judicial relief was exhausted based on the Ninth Circuit's dismissal on February 16, 2001, of litigation filed by the applicant. The warrant may be executed after the designation of El Salvador terminates under TPS, and/or the applicant becomes ineligible for TPS, and has not obtained another legal classification.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The application is sua sponte 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.