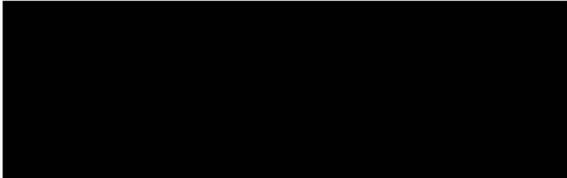




U.S. Citizenship  
and Immigration  
Services

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

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FILE:

[WAC 05 218 70915]

Office: California Service Center

Date: **JAN 23 2008**

INRE:

Applicant:

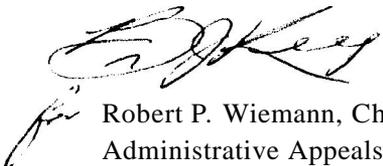


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 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, Texas 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 record reveals that the applicant filed an initial TPS application on May 24, 2001, under CIS receipt number SRC 01 221 62595. The Texas Service Center director denied that application for abandonment, on February 4, 2003, as the applicant failed to respond to a notice of intent to deny to submit evidence to establish her eligibility for late initial registration for TPS. The director noted that the notice of intent to deny was returned as undeliverable. The director, therefore, considered that application abandoned. 8 C.F.R. § 103.2(b)(13). 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 the current Form 1-821, Application for Temporary Protected Status, on May 6, 2005, under CIS receipt number WAC 05 218 70915, and indicated that she was re-registering for TPS. The California Service Center director denied that application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

However, the record of proceedings indicates that the applicant timely filed her initial TPS application on May 24, 2001, during the initial registration period for Salvadorans from March 9, 2001, through September 9, 2002. Therefore, the Texas Service Center director erred in denying the application for abandonment, in that the information requested in the notice of intent to deny was included in the record of proceeding.

It is noted that the record of proceeding 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. The record of proceedings reveals that the fingerprints are cleared. Specifically, a Federal Bureau of Investigations fingerprint check conducted in connection with the re-registration application shows no derogatory information. The record of proceeding also contains sufficient evidence to establish the applicant's identity and nationality, her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001 to the date of filing her application. 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.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.c. § 1361. The applicant has sustained that burden.

**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.