



U.S. Citizenship
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Services

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FILE:

Office: VERMONT SERVICE CENTER

Date: **JAN 29 2008**

[EAC 07 106 53630 Appeal]

[EAC 01 193 55392 Application]

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:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded.

The applicant is a native and citizen of El Salvador who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to respond to a Notice of Intent to Deny (NOID), dated November 19, 2003, requesting an explanation regarding a name discrepancy in her Service files and to obtain her signature on her Form I-821 Application for Temporary Protected Status that she filed on May 7, 2001.

On appeal, counsel states:

On September 25, 2006, VSC issued denial of Salvadoran TPS based on the fact that the applicant did not sign the application. The applicant entered without inspection on May 15, 2000, and used a false family name due to ill advice that she needed to pass as a minor traveling with a mother. She then applied for TPS with her proper family name in 2001. Later she married to a man named [REDACTED] and thus changed her family name to [REDACTED]. The applicant submitted proof of her name change in response to notice of intent to deny on April 17, 2003. She did not submit the explanation as to the use of fake name upon entry because it is not material. Moreover, it was clear that she was the same person via numerous biometric appointments that she attended. Same applies for lack of signature in 2001. The applicant has been re-registering with her signature continuously. It was confusing and unnecessary to require her to sign her application from 2001 in 2003, after she had signed a few more times. See the declaration by the applicant attached as well as other evidence.

The applicant's Federal Bureau of Investigation (FBI) fingerprint results report shows that on May 15, 2000, the applicant was arrested by the Border Patrol in Del Rio, Texas and processed under the alias [REDACTED]. The record also reflects that her birth certificate shows her name as [REDACTED] and lists her father as [REDACTED]. Her Republic of El Salvador passport issued on September 4, 2000, lists her name as [REDACTED]. On November 16, 2001, the applicant married [REDACTED]. Her second passport issued on July 18, 2006, lists her name as [REDACTED]. It is determined that the names listed in the applicant's file were all used by her as she progressed through her life.

The director denied the application on August 25, 2006, and indicated that a NOID dated November 19, 2003, offered the applicant an opportunity to sign a photocopy of her original Form I-821. However, the record does not clearly show that a copy of the Form I-821 was forwarded to her for signature as a copy of the cited attachment is missing from the record copy of the NOID. Therefore, the director's decision will be withdrawn and the case will be remanded for the issuance of a new decision and for the director to obtain any required signature on the original application.

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

ORDER: The case is remanded to the director for the entry of a new decision.