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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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M

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

JUL 11 2008

[SRC 01 262 56736 and WAC 05 072 178]

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center (TSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC). An appeal was dismissed by the Chief, Administrative Appeals Office (AAO). The matter is currently before the AAO because of a letter, with attachments, received from the applicant on August 29, 2006 that will be considered to be a motion to reopen. The case will be *sua sponte* reopened, the appeal will be sustained and the applications will be approved.

The applicant is 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 01 262 56736 which was denied by the TSC Director on March 21, 2003, for abandonment.

The applicant filed a subsequent Form I-821 under receipt number WAC 05 189 77157 and indicated that she was re-registering for TPS.

The CSC Director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The Chief of the AAO affirmed the determination and also found that the applicant had failed to establish that she had continuously resided in the United States since February 13, 2001, and had been continuously physically present since March 9, 2001.

The TSC Director denied the applicant's initial application finding that she had failed to respond to a Notice of Intent to Deny (NOID) dated December 23, 2002, requiring her to submit evidence of continuous residence and continuous physical presence during the required period. The copy of the NOID contained in the record shows that it was sent on that date without being addressed. Also, when TCS Director denied the initial application, the record contained some evidence of continuous residence and continuous physical presence that was not mentioned by the director in her decision.

The record contains the following documentation concerning continuous residence and continuous physical presence during the required periods:

1. A copy of a birth certificate issued by the Alamance Regional Medical Center in Burlington, North Carolina, stating that the applicant's daughter was born in its hospital on March 6, 2000.
2. A copy of the applicant's State of North Carolina identification card issued on March 31, 2000.
3. A copy of a State of a North Carolina birth certificate showing her son was born in that State on July 1, 2001.
4. A copy of a birth certificate issued by the Alamance Regional Medical Center in Burlington, North Carolina, stating that the applicant's son was born it its hospital on July 1, 2001.

5. A copy of a birth certificate issued by the Alamance Regional Medical Center in Burlington, North Carolina, stating that another of the applicant's children, a daughter, was born in its hospital on July 28, 2002.
6. A copy of the applicant's State of North Carolina driver license issued on November 25, 2003.

After review of the record, it is determined that the applicant has submitted sufficient evidence to establish that she has met the continuous residence and continuous physical presence requirements described in the regulations at 8 C.F.R. §§ 244.2(b) and (c).

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.

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

ORDER: The denial of the initial application is withdrawn, the appeal for the re-registration application is sustained and both applications are approved.