

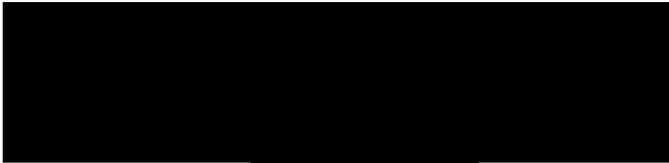
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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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Services

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FILE: [REDACTED]  
[WAC 05 259 70593]

Office: CALIFORNIA SERVICE CENTER

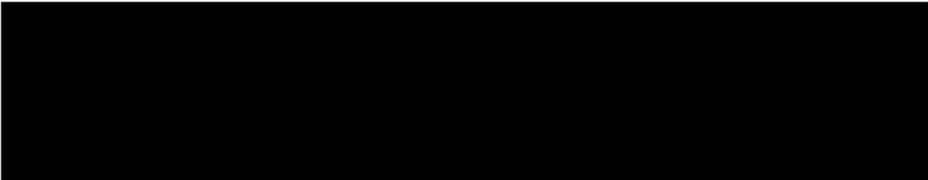
Date: MAR 05 2008

INRE: Applicant:



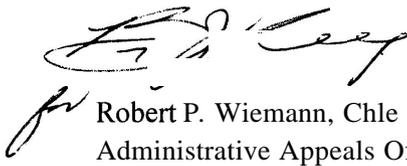
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.

  
Robert P. Wiemann, Chle  
Administrative Appeals Office

**DISCUSSION:** The initial application was denied by the Director, California Service Center. A subsequent application was denied by the Director, California Service Center, and is currently before the AAO on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office (AAO). 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 a TPS application during the initial registration period on December 27, 2001, under Citizenship and Immigration Services (CIS) receipt number LIN 02 076 50597. The Director, Nebraska Service Center, denied that application on February 28, 2002, because the applicant failed to establish her identity, her continuous residence and her continuous physical presence in the United States during the qualifying period. There is nothing in the record to indicate that the applicant appealed the director's decision.

However, the record of proceedings reveals that the applicant had provided sufficient evidence to establish her identity, her continuous residence and her continuous physical presence during the requisite period.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on June 16, 2005, and indicated that she was submitting an initial TPS application.

The 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.

On appeal, counsel for the applicant states that the application was erroneously denied. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States.

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. Specifically, the record contains a copy of the applicant's El Salvadoran passport, which establishes her identity and nationality. In addition, the record contains a copy of her B1/B2 Visa, which indicates she entered the United States on May 17, 2000. It is also noted that the applicant's mother listed the applicant as being with her in the United States on her initial TPS application filed on June 7, 2001. Based on both the applicant's and her mother's records, it appears the applicant has been present in the United States and has established continuous residence and continuous physical presence during the qualifying period. 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 applicant is eligible for employment authorization under 8 C.F.R. § 274a.12(a)(12).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b). The applicant has met 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. The appeal is sustained.