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



U.S. Citizenship
and Immigration
Services

PUBLIC COpy



FILE:

[WAC 05 218 72250]

Office: California Service Center

Date:

MAR 10 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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The application will be reopened by the Chief, Administrative Appeals Office. The appeal will be sustained and the application will be approved.

The applicant is a citizen of EI 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 late initial TPS application on August 6, 2005, under CIS receipt number WAC 05 218 72250. The director denied the application on May 24, 2005, because the applicant failed to establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

However, the record 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 does not reveal any derogatory information. The record contains sufficient evidence, including school records, and vaccination records, which cumulatively establishes the applicant's continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001, to the date of filing his application. The applicant has submitted his EI Salvador birth certificate, and an English translation. It is noted that the record of proceedings reflects that the applicant arrived in the United States when he was 2 years old; therefore, it is unlikely that he would have had a national identification document with his fingerprints issued from his country at that time to establish his identity. In this case, his school records and vaccinations records will suffice. Therefore, the director's decision will be withdrawn, and the initial application will 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 appeal is sustained.