

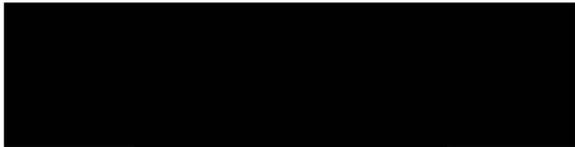


U.S. Citizenship
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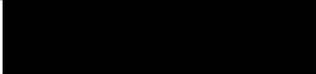
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: MAY 13 2008

[WAC 05 165 73589]

INRE:

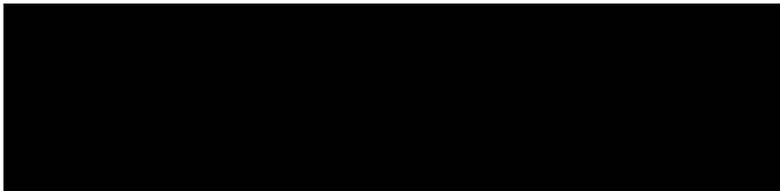
Applicant:



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, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Nebraska Service Center. A subsequent application for re-registration 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 applicant filed an initial application for TPS under receipt number LIN 01 177 50023. The director denied the initial application as abandoned on November 9, 2001, after determining that the applicant had failed to appear for fingerprinting. The applicant filed a subsequent TPS re-registration application on November 13, 2002 under receipt number LIN 03 051 50803. The director denied that application on May 19, 2003 because the applicant failed to establish that he was eligible for filing his TPS application after the initial registration period from March 9, 2001 through September 9, 2002.

However, the record of proceedings reveals that the applicant was fingerprinted on August 28, 2001 and again on October 16, 2001 with no negative results reported.

The applicant filed the current Form 1-821, Application for Temporary Protected Status, on March 14, 2005. The director denied the 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 director erred in denying the application because the applicant has an appeal pending and is therefore still *prima facie* eligible for TPS. That appeal will be addressed in a separate decision.

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. 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.P.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.P.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.P.R. § 244.9(b). The applicant has met this 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.