

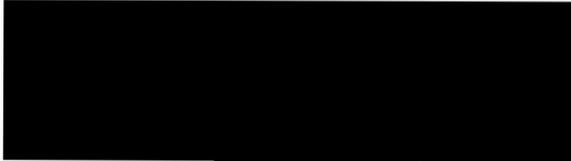
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U.S. Citizenship
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FILE: [REDACTED] OFFICE: California Service Center DATE: SEP 04 2008
[WAC 05 218 77302, as it pertains to
SRC 01 203 56277]

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:
[REDACTED]

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, Texas Service Center (TSC). The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office (AAO), and the application will be approved. A subsequent application for re-registration was also denied by the Director, California Service Center (CSC) and is currently before the AAO on appeal. 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 record reveals that the applicant filed a TPS application during the initial registration period on May 2, 2001, under receipt number SRC 01 203 56277. On January 4, 2003, the applicant was requested to submit additional evidence establishing her continuous residence and continuous physical presence in the United States during the requisite periods. On March 26, 2003, the TSC director denied that application based on abandonment because the applicant failed to submit the requested evidence. The director informed the applicant that a denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion within the allotted timeframe.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 7, 2005, and indicated that she was re-registering for TPS. The director denied the re-registration application on July 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant has now submitted an appeal from the director's decision.

On appeal, the applicant states that her failure to submit the requested evidence is because she never received the Notice of Intent to Deny. She further states that there was no reason for her to ignore the notice since she had the required documentation. In addition, the applicant submits the following evidence:

1. A copy of her Salvadoran passport issued on January 16, 2003, at Miami, Florida;
2. A copy of her son's birth certificate showing that he was born on October 25, 2000, at Bethesda Memorial Hospital, Florida;
3. A copy of an affidavit dated June 22, 2004, from [REDACTED] of Direct Property Inc., attesting that the applicant has lived at [REDACTED], Boynton Beach, Fl 33435, since January of 2000;
4. An affidavit dated August 29, 2005, from [REDACTED] Human Resources Generalist of Nurserymen's Exchange, stating that the applicant has been employed with the company since January 2, 2001;
5. Copies of Form(s) I-765, Application for Employment Authorization, dated June 21, 2001 and October 29, 2002;
6. A copy of her EAD card valid from the period of January 4, 2003 to September 9, 2003; and,
7. A copy of her driver license issued in Florida, valid for the period of September 24, 2003 to September 24, 2005.

The applicant has submitted sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the requisite periods. The record does not reflect any grounds that would bar

the applicant from receiving TPS. There are no other known grounds of ineligibility; consequently, the director's decision will be withdrawn and the appeal will be sustained.

In addition, 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).

An alien applying for Temporary Protected Status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. 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.