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[REDACTED]

FILE:

Office: CALIFORNIA SERVICE CENTER

Date SEP 23 2008

[WAC 08 132 50831]

[WAC 05 270 70393 as it relates to SRC 01 196 57111]

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). A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on a second motion to reopen. The case will be *sua sponte* reopened, the applications will be approved and the appeal will be sustained.

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, on April 23, 2001, under receipt number SRC 01 195 57111 which was denied by the TSC Director on August 12, 2004, because the applicant had not provided a disposition for his arrest on March 25, 2000 by the Police Department in McKinney, Texas, for assault causing bodily injury.

The applicant filed a subsequent Form I-821 on June 27, 2005, and indicated that he was re-registering for TPS.

The Director, California Service Center (CSC), 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. A subsequent appeal was rejected by the AAO because it was not filed by a person with legal standing in the proceeding. A subsequent motion to reopen was dismissed by the CSC Director on March 14, 2008. The matter is now before the AAO on a second motion to reconsider.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

As stated above, the director denied the initial application after determining that the applicant had not provided a disposition for his arrest on March 25, 2000 by the Police Department in McKinney, Texas, for assault causing bodily injury. On November 20, 2007, the applicant submitted a copy of a letter from the Criminal Investigation Division of the McKinney, Texas, Police Department stating that no charges would be filed against the applicant for his arrest on March 25, 2000 for the assault offense because of the lack of cooperation by the complainant. The copy of the letter was certified by the Deputy Clerk on October 12, 2004, as being a correct copy of the instrument as filed for the record in the office of the Clerk of the County Court of Collin County, Texas.

The applicant has not previously been granted TPS because he had not provided a disposition for his arrest on March 25, 2000. The disposition is now a matter of record.

The applicant has satisfied all other eligibility requirements for TPS. Therefore, the application is 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.

An alien applying for temporary protected status has the burden of proving that he or she meets all 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.