



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: MAR 27 2007

[WAC 05 198 75315]
[WAC 03 268 54229]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

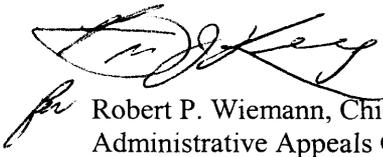
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 office that originally decided your case. Any further inquiry must be made to that office.


for 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 on appeal. The case will be remanded to the director for further action.

The applicant is a native and citizen of El Salvador who was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on February 26, 2004, under Citizenship and Immigration Services (CIS) receipt number WAC 03 268 54229.

The record reveals that the applicant filed a TPS application during the initial registration period on March 22, 2001, under CIS receipt number WAC 01 166 50355. The director denied that application based on abandonment on November 18, 2002, because the applicant had failed to respond to requests dated February 27, 2002 and June 25, 2002, to submit evidence establishing her nationality and identity. The applicant did not file a motion to reopen within 30 days from the date of the denial. The applicant filed a second [late] TPS application on September 11, 2003, under CIS receipt number WAC 03 268 54229, claiming eligibility based on a pending application for asylum (Form I-589). That TPS application was approved on February 26, 2004.

It is noted that Form I-589 was filed on November 15, 2000; Form I-862, Notice to Appear, was issued on February 24, 2003, at Anaheim, California, on the date of the applicant's asylum interview; on March 17, 2003, the applicant was advised to appear for a hearing before the Immigration Court on August 11, 2003; on August 11, 2003, the applicant was advised to appear for a hearing before the Immigration Court on December 15, 2003; on December 15, 2003, the applicant was advised to appear for a hearing before the Immigration Court on April 26, 2004; on April 26, 2004, in Los Angeles, California, the Immigration Judge administratively closed removal proceedings based on the filing/approval of her TPS application.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 26, 2005, and indicated that she was re-registering for TPS. The director denied the re-registration application on August 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.

On appeal, counsel asserts that the director incorrectly stated in his decision that the applicant was ineligible for re-registration because the TPS application had not been granted. He states that the applicant was granted TPS on February 26, 2004. To support his claim, counsel submits a copy of Form I-797, Notice of Action, dated February 26, 2004, advising the applicant that her TPS application (WAC 03 268 54229) has been approved, and she has been granted TPS status.

The record indicates that the applicant was, indeed, granted TPS status on February 26, 2004. There is no evidence in the record that the applicant's TPS status had been withdrawn. Therefore, the director's decision to deny the re-registration application will be withdrawn, and the case will be remanded for further action. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The case is remanded to the director for further action consistent with the above.