



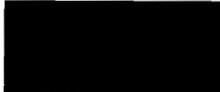
U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date:

MAY 31 2007

[WAC 05 218 71283 as it relates to SRC 03 011 53856]

IN RE:

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 California Service Center. Any further inquiry must be made to that office.

Cindy M. Gomez
for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center. A subsequent application for re-registration was also denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO. The appeal will be sustained and the applications 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 record reveals that the applicant filed an initial TPS application on September 9, 2002, under receipt number SRC 03 011 53856. The director denied that application, on June 9, 2003, because the applicant failed to appear for fingerprinting. The director, therefore, considered that application abandoned. 8 C.F.R. § 103.2(b)(13). 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 to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 6, 2005, under receipt number WAC 05 281 71283, and indicated that she was re-registering for TPS.¹ The director denied that application on August 16, 2005, because the applicant's initial TPS application had been denied.

However, the record of proceedings now 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 reveals that Federal Bureau of Investigation' fingerprint records check conducted in connection with the re-registration application resulted in no disqualifying results. The record of proceeding also contains sufficient evidence to establish the applicant's identity and nationality, her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001. 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 burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that 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.

¹ It is noted that the applicant also filed a re-registration application on January 23, 2004.