

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

[REDACTED]

MI

FILE:

[REDACTED]

OFFICE: Vermont Service Center

DATE:

MAY 31 2007

[EAC 03 152 50270 –
as it relates to
EAC 01 182 50882]

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.

Robert P. Wiemann
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Vermont Service Center (VSC). The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office (AAO). A subsequent application was denied by the VSC Director, and is currently before the AAO on appeal. 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 shows that the applicant filed an initial application for TPS on April 17, 2001, during the initial registration period, under Citizenship and Immigration Services (CIS) receipt number EAC 01 182 50882. The VSC Director denied the initial application on the ground of abandonment on May 24, 2002, after the applicant failed to respond to a request for evidence to establish his nationality. The applicant filed another TPS application, identified as an application for re-registration, on August 3, 2002. The application was returned for submission of fees, and was subsequently accepted by the VSC as filed on November 2, 2002. On January 27, 2003, the director denied the accompanying employment authorization application (but not the TPS application) on the ground that the applicant's initial TPS application had been denied.

The applicant filed another TPS application on April 7, 2003, under CIS receipt number EAC 03 152 50270. On July 18, 2003, the VSC Director denied the application – after finding that the applicant had submitted sufficient evidence to establish his nationality, continuous residence and continuous physical presence in the United States during the requisite time periods – on the ground that the applicant failed to establish his eligibility for late initial registration. The applicant appealed.

On appeal, counsel asserts that the director erred in requiring the applicant to establish his eligibility for late initial registration because he had originally applied for TPS during the initial registration period on April 17, 2001. The denial of that application on the ground of abandonment was based on the applicant's failure to submit evidence of his nationality. In support of the TPS application he filed on April 7, 2003, the applicant submitted photocopies of (1) his El Salvadoran passport issued on July 18, 2001, by the Consulate General in Manhattan, New York, (2) his El Salvadoran nationality and identity document (Cedula), issued on October 5, 1993, and (3) his birth certificate. Since the applicant has overcome the sole ground for the denial of his initial application for TPS, the VSC Director's denial of the initial application will be withdrawn and the initial application will be approved.

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. The letters and affidavits on behalf of the applicant, while not in and of themselves probative, are supported by corroborative evidence including a bank statement from October-November 2001; original earnings statements, receipts, and postmarked envelopes dated between December 23, 2000 and November 22, 2002; a Social Security card; and a letter from the Piermont [New York] Police Department, dated June 4, 2003, confirming that the applicant had no arrest record.

The director's denial of the subsequent TPS application is dependent upon the adjudication of the initial application. Since the initial application is being approved, the appeal from the denial of this application will be sustained.

An alien applying for TPS 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 that burden.

ORDER: The initial application [EAC 01 182 50882] is reopened, *sua sponte*, the director's denial is withdrawn, and the application is approved.

The appeal of the director's decision on July 18, 2003, denying the applicant's subsequent TPS application [EAC 03 152 50270], is sustained.