



U.S. Citizenship
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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: NOV 29 2007

[WAC 01 186 70143]
[WAC 05 161 72819]

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.

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 (CSC), and is currently before the Administrative Appeals Office on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the application 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 April 17, 2001, under receipt number SRC 01 186 70143. The TSC director denied that application on September 23, 2003, after determining that the applicant had abandoned her application based on her failure to appear for fingerprinting. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status on March 10, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 161 72819, and indicated that she was re-registering for TPS. The CSC 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.

The record of proceeding contains a letter dated June 1, 2001, from the TSC director acknowledging receipt of the applicant's fingerprint fee, and advising the applicant that she "will be notified in writing of the date, time, and location to report and have your fingerprints completed." The record, however, does not contain any evidence to establish that the applicant was, in fact, requested to appear for fingerprinting as determined by the TSC director in her notice of denial dated September 23, 2003; nor did the TSC director indicate on the denial notice the date the applicant was required to appear for fingerprinting. A review of CIS record systems fails to reveal that any fingerprint notice was sent to the applicant prior to the denial of the initial TPS application.

The record, however, indicates that the applicant subsequently was fingerprinted and the Federal Bureau of Investigation fingerprint results reports dated May 5, 2003 and March 23, 2006, do not reflect a criminal record that would bar the applicant from receiving TPS. The applicant, therefore, has overcome the sole ground for the denial of her initial application for TPS. Additionally, the record of proceeding contains sufficient evidence to establish the applicant's eligibility for TPS and also does not reflect any grounds that would bar the applicant from receiving TPS. Therefore, the TSC director's decision will be withdrawn and the initial application will be approved.

The CSC 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 is upon the applicant to establish 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 application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration applications are both approved.