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U.S. Citizenship
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[REDACTED]

OCT 29 2007

FILE:

[WAC 05 222 77513]
[SRC 02 043 54105]

OFFICE: CALIFORNIA SERVICE CENTER

DATE:

IN RE:

Applicant:

[REDACTED]

APPLICATION:

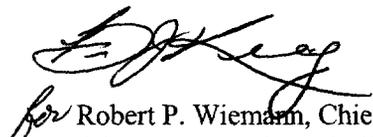
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the application will be approved. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office on appeal. The appeal will be sustained 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 November 19, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 02 043 54105. The Director, Texas Service Center, denied that application on October 29, 2004, after determining that the applicant had abandoned her application based on her failure to appear for fingerprinting on June 30, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 10, 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 applicant never received notice of an intent to deny and she was not afforded an opportunity to respond although she timely filed an AR-11, Change of Address Notice.

The record indicates that the notice to appear for fingerprinting and the director's notice of denial were mailed to the applicant's most recent address at that time [REDACTED]. There is no evidence in the record that the applicant had advised CIS of a change of her address, nor is there evidence that the notices were returned to CIS as undeliverable.

Nevertheless, the record indicates that the applicant subsequently was fingerprinted on June 4, 2005, and the Federal Bureau of Investigation fingerprint results report does 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. 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. Additionally, the applicant has furnished sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). 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 applicant is eligible for employment authorization under 8 C.F.R. § 274a.12(a)(12).

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.