

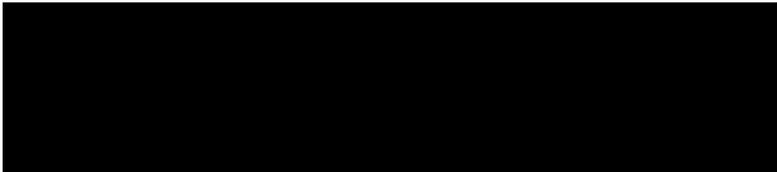


U.S. Citizenship
and Immigration
Services

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FILE:

OFFICE: VERMONT SERVICE CENTER

DATE: JAN 09 2008

[EAC 01 188 53704]

[EAC 03 122 50138]

[EAC 03 253 54640]

IN RE:

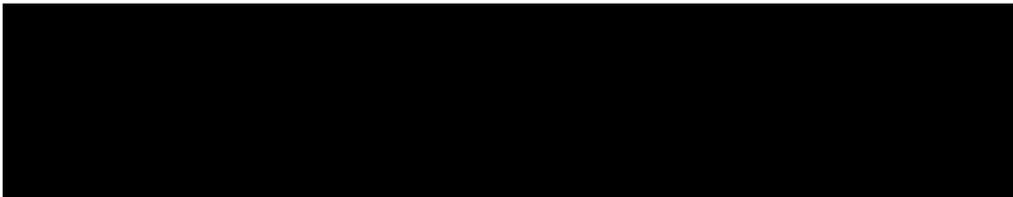
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Vermont Service Center (VSC). A second application was also denied by the VSC director. A third application was denied by the VSC director and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the AAO, and the applications 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 29, 2001, under receipt number EAC 01 188 53704. The director denied that application on February 20, 2002, after determining that the applicant had abandoned her application based on her failure to appear for fingerprinting on July 6, 2001. The director also denied the applicant's motion to reopen because the motion did not state new facts to be proved, and the applicant failed to establish that the decision was based on an incorrect application of law or USCIS policy.

The applicant filed a subsequent TPS application on January 30, 2003, under receipt number EAC 03 122 50138, and indicated that she was re-registering for TPS. The director denied that re-registration application based on abandonment on June 16, 2003, because the applicant had failed to respond to a Notice of Intent to Deny (NOID) dated May 1, 2003, requesting that the applicant submit evidence to establish: (1) eligibility for late initial registration; (2) her nationality and identity; and (3) continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. It is noted, however, that the applicant did respond to the director's NOID. That response was received at the Vermont Service Center on June 1, 2003, prior to the director's denial decision.

The applicant filed the current TPS application on September 12, 2003, under receipt number EAC 03 253 54640, and indicated that this is her "first application to register for Temporary Protected Status." The director denied the application on January 7, 2004, because the applicant had failed to respond to the director's NOID dated October 21, 2003. On April 8, 2004, the applicant filed an appeal from the denial decision. Because the appeal was untimely filed, the director rejected the appeal and accepted it as a motion to reopen, and the director dismissed the motion on July 19, 2004, because the grounds for the denial had not been overcome. The applicant filed the current appeal on August 21, 2004, and resubmitted copies of documentary evidence, previously furnished and contained in the record of proceeding, to establish continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

The record, however, indicates that the applicant subsequently was fingerprinted and the Federal Bureau of Investigation fingerprint results reports dated April 7, 2003; May 23, 2005; and April 24, 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 (EAC 01 188 53704). 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 director's decision will be withdrawn and the initial application will be approved.

The director's denial of the subsequent TPS applications is dependent upon the adjudication of the initial application. Since the initial application is being approved, the re-registration application (EAC 03 122 50138) will also be approved, and the appeal from the denial of the present application (EAC 03 253 54640) will be sustained and that application will also be approved.

ORDER: The case is reopened and the director's denial of the initial application is withdrawn. The initial application, the re-registration application, and the present application are approved.