

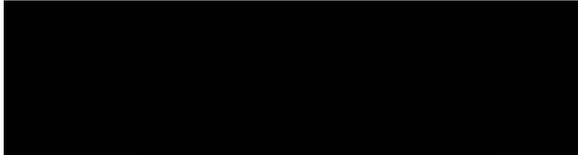
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u.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**



FILE:



Office: California Service Center

Date:

**MAR 17 2008**

[WAC 05 211 71230

as related to SRC 01 234 53180 and SRC 02 269 54269]

INRE:

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center. A subsequent application for re-registration was denied by the Director, Texas Service Center. The current application for re-registration was denied by the Director, California Service Center, and is before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the case will be remanded for further consideration and action.

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 an initial TPS application on July 16, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 02 234 53180, and a subsequent re-registration application on September 9, 2002, under CIS receipt number SRC 02 269 54269. The Texas Service Center Director (TSC) simultaneously denied both applications due to abandonment because the applicant failed to appear for her scheduled fingerprinting appointment. The TSC director noted that the fingerprinting notice was mailed to the applicant's last known address. 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 1-821, Application for Temporary Protected Status, on February 28, 2005, under CIS receipt number WAC 05 211 71230, and indicated that she was re-registering for TPS. The Director, California Service Center denied the re-registration application on September 12, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

On appeal, the applicant asserts her eligibility for TPS.

It is noted that the record does not reflect that a fingerprinting notice was mailed to the applicant. Without evidence that the applicant received the fingerprinting notice, there is no basis to determine whether the applicant failed to comply with the director's instructions in the notice.

The record of proceedings reveals that the applicant was subsequently fingerprinted and the Federal Bureau of Investigation (FBI) fingerprint check conducted on July 18, 2006, in connection with the re-registration application shows "non-ident". The record of proceedings contains a copy of the applicant's photo identification in the form of a Cedula.

The application, however, may not be approved at this time because the record does not contain documentation to establish the requisite continuous residence and continuous physical presence.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the applications for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, that decision will be remanded to the director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Salvadorans.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The re-registration applications are remanded for further action consistent with the director's new decision on the initial application.