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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

M

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

DEC 18 2007

[WAC 05 229 71393 as these relate to EAC 01 154 54000 and WAC 05 228 81790]

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.

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

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The initial application was denied by the Director, Vermont Service Center (VSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC), and is currently before the Administrative Appeals Office as a late appeal. Notwithstanding that the appeal is late, because of the circumstances of the case, the matter will be *sua sponte* reopened, the applications will be approved and the appeal will be sustained.

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 applicant filed an initial application for TPS on April 17, 2001, which was denied by the TSC Director on June 16, 2003, because the applicant had abandoned her application by failing to appear for required fingerprinting.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 17, 2005, and indicated that she was re-registering for TPS.<sup>1</sup>

The CSC Director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

As indicated above, the applicant filed a late appeal. However, due to the circumstances of the case, AAO will reopen the matter on Citizenship and Immigration Services motion to reopen in order to make a new and favorable decision to the affected party. 8 C.F.R. § 103.5(a)(5)(i).

The director denied the initial application on June 16, 2003, after determining that the applicant had abandoned her application by failing to respond to a request to appear for fingerprinting. The record reflects that her fingerprints were taken and sent to the Federal Bureau of Investigation, (FBI), by Citizenship and Immigration Services on August 3, 2005 and on June 16, 2006. The applicant's FBI fingerprint report results identified no derogatory information.

The applicant has satisfied all other eligibility requirements for TPS. 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.

An alien applying for temporary protected status has the burden of proving that he or she meets the above requirements and is eligible under the provisions of section 244 of the Act. The applicant has met this burden.

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<sup>1</sup> It is noted that another receipt number was erroneously given to another Form I-821 under WAC 05 228 81790 that appears to have been filed electronically on or about the same date.

**ORDER:** The denial of the initial application is withdrawn, the appeal for the re-registration application is sustained, and all TPS applications are approved.