



U.S. Citizenship
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[REDACTED]

FILE: [REDACTED]
[WAC 05 117 74222]

Office: California Service Center

Date: DEC 19 2007

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 office California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's initial application for Temporary Protected Status was denied by the Director, California Service Center. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

The applicant is a 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 April 2, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 181 56043. The director denied that application due to abandonment on July 15, 2004, because the applicant failed to report for scheduled fingerprinting. 8 C.F.R. § 103.2(b)(13). 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. A subsequent appeal was remanded by the AAO, in a separate decision issued simultaneously with this decision. The Chief, AAO, determined that the appeal met the requirements of a motion to reconsider. The Chief, AAO, noted that as the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Therefore, the AAO returned the matter to the California Service Center director with instructions for the director to consider the matter as a motion to reconsider and render a new decision accordingly.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 25, 2005, under CIS receipt number WAC 05 117 74222, and indicated that she was re-registering for TPS. The Director, California Service Center, denied this application on July 8, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

As noted above, the AAO remanded an appeal of a denial of a previous re-registration application to the California Service Center director with instructions for the director to consider the matter as a motion to reconsider and render a new decision accordingly. The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the previous re-registration application. Since the previous re-registration 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 El 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 re-registration application is remanded for further action consistent with the director's new decision on the previous re-registration application.