



U.S. Citizenship
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MI

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: JUL 10 2007

[WAC 05 209 80254 as it relates to SRC 01 175 56784]

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.

Cindy N. Gomer for

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center (TSC) on July 30, 2002. A motion to reopen was granted by the Director, the initial denial was withdrawn, and the case was "reopened for approval." 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 *sua sponte* reopened, 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 applicant filed an initial application for TPS under receipt SRC 01 175 56784 which was denied by the director on July 30, 2002, because the applicant had abandoned his application by failing to respond to a June 18, 2002 request for evidence requiring him to submit a copy of a picture identification such as a passport or driver's license. On motion to reopen, counsel successfully argued that she had not been provided with a copy of the request for evidence as required. As stated above, a subsequent motion to reopen was granted by the Director, TSC, the initial denial was withdrawn, and the case was "reopened for approval." This ambiguous wording indicates that some additional action was to be forthcoming by the director. It is noted that there is a notation on a Form I-821, Application for Temporary Protected Status, signed by the applicant on October 30, 2002, indicating "motion approved." However, the record does not clearly show that the applicant's initial application was either approved or denied. It also is noted that the record now contains a copy of a picture identification in the form of the applicant's El Salvadoran national identity card issued on February 15, 1991.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 21, 2005, and indicated that he was re-registering for TPS.¹

The 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.

Review of the record establishes the applicant has satisfied all eligibility requirements for TPS. The record indicates that the previous denial was "reopened for approval." The case is *sua sponte* reopened, the appeal is sustained and the application is approved.

It is noted that the applicant was ordered removed (deported) in absentia at New York City, on April 1, 1998, under file [REDACTED]

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.

¹ Additional applications for TPS were filed on November 6, 2002, and September 10, 2003.

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