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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 04 2007

[WAC 05 214 74141 as it pertains to SRC 01 225 67077]

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

Robert P. Wiemann

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center (TSC). Subsequent applications for re-registration were denied with the last application denied by the Director, California Service Center. This is currently before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained, and the application 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 number SRC 01 225 67077. The director denied the initial application on June 23, 2004, and two motions to reopen because the applicant had abandoned his application by failing to appear for fingerprinting.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on August 16, 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.

As stated above, the director denied the initial application on June 23, 2003, after determining that the applicant had abandoned his application by failing to respond to a request to appear for fingerprinting. However, the record reflects that his fingerprints were taken and sent to the Federal Bureau of Investigation, (FBI), by Citizenship and Immigration Services on April 20, 2004, June 23, 2005 and on April 21, 2006. The applicant's FBI fingerprint report results identified no derogatory information. Further, the applicant did note a change of address on a Form I-821, Application for Temporary Protected Status, filed on September 17, 2002, but the fingerprint notice was sent to the previous address, in error, on January 16, 2003. Therefore, the application could not be considered as abandoned.

The applicant has satisfied all other eligibility requirements for TPS. Therefore, the application is 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.

ORDER: The appeal is sustained.

¹ It is noted that a subsequent application was filed under EAC 06 311 87475.