



U.S. Citizenship  
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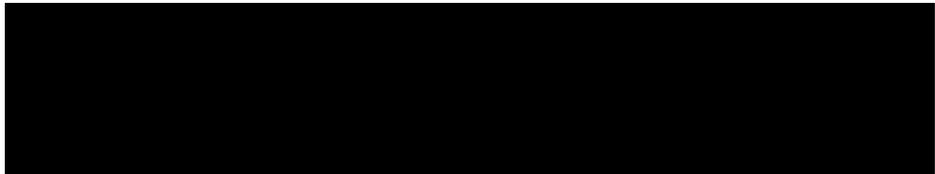
Office: California Service Center

Date: JUN 14 2007

[WAC 05 215 77455 as it relates to SRC 01 179 55549]

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:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Cindy N. Honey* for

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The initial application was denied by the Director, Texas Service Center. A subsequent application for re-registration was also denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO. The appeal will be sustained and the applications will be approved.

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 12, 2001, under receipt number SRC 01 179 55549. The director denied that application on April 22, 2004, because the applicant failed to respond to request for evidence, dated January 20, 2004, wherein the director requested that the applicant submit a photo identification proving his nationality. The director, therefore, considered that application abandoned. 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. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 3, 2005, under CIS receipt number WAC 05 215 77455, and indicated that he was re-registering for TPS.<sup>1</sup> The director denied that application on August 16, 2005, because the applicant's initial TPS application had been denied.

However, the record of proceedings contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any grounds that would bar the applicant from receiving TPS. The record of proceedings reveals that the applicant submitted a national identification photo identification card. With the appeal the applicant also submitted a statement, in affidavit form, explaining the reason for the delay in obtaining the requested evidence. Also, a Federal Bureau of Investigations fingerprint report check conducted in connection with the re-registration application indicates no adverse findings against the applicant. The record of proceeding also contains sufficient evidence to establish the applicant's identity and nationality, his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001. Therefore, the director's decision will be withdrawn and the initial application will be approved.

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.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

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<sup>1</sup> The applicant also filed re-registration applications on September 30, 2002, and April 7, 2003.

**ORDER:** The application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration application are both approved. The appeal is sustained.