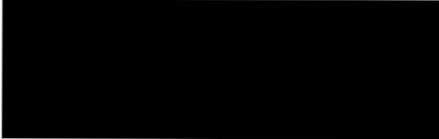




U.S. Citizenship  
and Immigration  
Services

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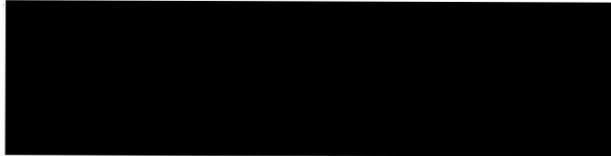
Office: California Service Center

Date: MAY 31 2007

[WAC 05 207 91328 as it relates to SRC 01 208 54962]

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.

*Robert P. Wiemann*

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 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, Administrative Appeals Office. 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 May 9, 2001, under CIS receipt number SRC 01 208 54962. The director denied that application on March 11, 2003, because the applicant failed to respond to a notice of intent to deny, dated January 15, 2003, in which the director requested that the applicant submit a photo ID, and evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. 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 subsequent applications, including the current Form I-821, Application for Temporary Protected Status, on April 25, 2005, under CIS receipt number WAC 05 207 91328, and indicated that she was re-registering for TPS. The director denied this application on March 27, 2006, because the applicant's initial TPS application had been denied.

However, the record 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 contains sufficient evidence to establish the applicant's identity and nationality, her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001, to the date of filing her application. The record of proceedings contains a photo ID in the form of the biographic page of the applicant's El Salvador passport. The record contains immunization records, from April 12, 2000 through June 11, 2001, for the applicant's child, born on February 29, 2000, in North Carolina; and a Medicaid Identification Card, valid from March 1, 2001, through October 31, 2001. **These documents established the requisite continuous residence and continuous physical presence.** 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.

It also : Federal Bureau of Investigations fingerprint results report indicates that another record, was created at Port Isabel, Texas, on October 20, 1996, when the applicant was apprehended while attempting to enter the United States without inspection. She was placed in removal proceedings at that time. The removal proceedings remain outstanding.

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.

**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.