



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: NOV 14 2007

[WAC 01 168 54986]

[WAC 05 229 71525]

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application 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 on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, 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 director denied the initial TPS application on February 27, 2004, after determining that the applicant had abandoned her application by failing to appear for fingerprinting on February 5, 2004. The director noted that the U.S. Postal Service returned the notice as "undeliverable," and there was nothing in the record to establish that the applicant had attempted to contact the USCIS in any other manner concerning her application.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 17, 2005, and indicated that this is her "first application to register for Temporary Protected Status (TPS)." The director treated the application as a re-registration application and determined that because the applicant's initial TPS application had been denied, the applicant was not eligible to apply for re-registration for TPS; therefore, the director denied the application on May 25, 2006.

On appeal, the applicant, through former counsel, asserts that although she applied for TPS during the initial registration period, she never received anything from the Service office. She states that she had made several inquiries to the California Service Center, including copies of money orders, and she was told that since she did not have any receipts or an "alien number," they could not provide her with any information about her case.

A review of the record indicates that on April 29, 2002, the applicant was sent a fingerprint appointment notice instructing her to appear at the Application Support Center in Buena Park, California, on June 4, 2002, to be fingerprinted. The notice was mailed to the applicant at the address listed on her Form I-821, "[REDACTED]". The notice was returned to CIS for insufficient address. On December 30, 2003, the applicant was once again sent a fingerprint appointment notice to appear at the Application Support Center to be fingerprinted. The notice was sent to the same address, "[REDACTED]". The notice was returned to CIS for insufficient address.

The record, however, indicates that the applicant provided a complete address on her initial Form I-765, Application for Employment Authorization, filed under receipt number WAC 01 168 5589, "[REDACTED]". The two fingerprint appointment notices, including the director's denial decision dated July 1, 2004, were sent to an incomplete address, even though the applicant did provide her complete address, including apartment number, on the Form I-765.

The record, however, indicates that the applicant subsequently was fingerprinted and the Federal Bureau of Investigation fingerprint results report dated February 9, 2006, does not reflect a criminal record that would bar the applicant from receiving TPS. The applicant, therefore, has overcome the sole ground for the denial of her initial application for TPS.

The record of proceeding contains sufficient evidence to establish the applicant's eligibility for TPS and also does not reflect any grounds that would bar the applicant from receiving TPS. Additionally, the applicant has furnished sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). 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.

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