



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

M1



FILE:



Office: California Service Center

Date: **SEP 05 2007**

[WAC 05 155 71372, as it relates to WAC 01 198 51849]

IN RE:

Applicant:



APPLICATION:

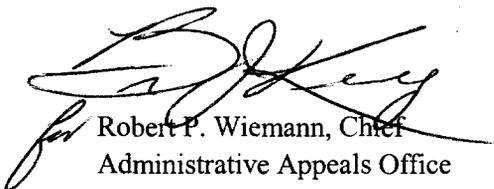
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254.

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


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's temporary protected status 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 (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the case will be remanded for further consideration and action.

The applicant is stated to be 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 4, 2001, under CIS receipt number WAC 01 198 51849. The director denied that application due to abandonment, on October 14, 2004, because the applicant failed to submit all of the evidence requested in a June 28, 2004, request for evidence. The director noted that the applicant's response included some, but not all, of the evidence requested; specifically the applicant failed to submit the final court disposition, for an October 10, 1999 arrest. 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 within the requisite period.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 4, 2005, under CIS receipt number WAC 05 155 71372, and indicated that she was re-registering for TPS. The director denied the re-registration application, on March 26, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states she has been living in the United States since July 1984, and that she timely submitted the requested court disposition. With the appeal, the applicant submits a court disposition, for an arrest on October 29, 1999, from the Municipal Court of Criminal Justice Center (LAC) Judicial District, County of Los Angeles, State of California. The court disposition shows that, on December 1, 1999, the court found the applicant guilty, on a *nolo contendere* plea, and convicted the applicant of violating Section 487(C) PC MISD – GRAND THEFT: PRPRTY FROM PERSON, and sentenced the applicant to 24 months suspended probation.

It is noted that the record reveals that the applicant did respond to the director's request for evidence, and the director acknowledged this in his decision. Therefore, the director's decision to deny the application, for abandonment, was inappropriate, as the applicant did not abandon her application.

It is also noted that the record of proceedings does not contain sufficient evidence to establish the requisite continuous residence and continuous physical presence in the United States.

The director's denial of the initial application will be withdrawn; the application will be remanded, and the director shall re-issue the request for evidence to afford the applicant an opportunity to submit the evidence to establish her eligibility for TPS. 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 remanded, that decision will be remanded to the director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to El Salvadorans.



As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.