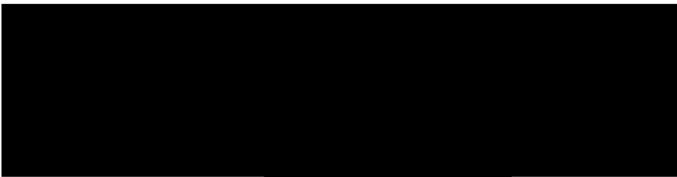


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U.S. Citizenship
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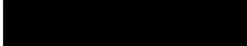
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FEB 05 2008

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 117 70890
As it relates to LIN 01 142 52152]

IN RE:

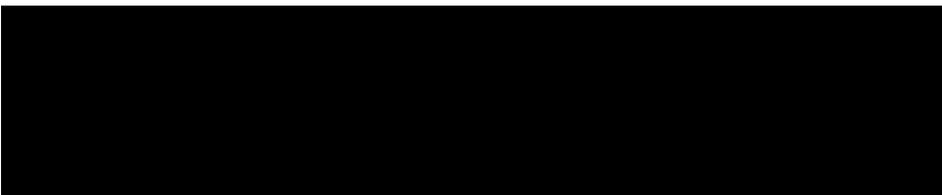
Applicant:



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, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Nebraska Service Center. A subsequent application for re-registration was denied by the Director, California 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 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 record reveals that the applicant filed a TPS application during the initial registration period on March 21, 2001, under Citizenship and Immigration Services (CIS) receipt number LIN 01 142 52152. The Nebraska Service Center (NSC) director denied that application on December 2, 2002, because the applicant failed to submit documents in response to a request for documents and, therefore, had abandoned his application. The director noted that the applicant had been fingerprinted twice, however, both efforts resulted in "unclassifiable" prints, and the applicant was requested to submit letters of police clearance from each city in which the applicant lived as the director had requested. 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. On May 21, 2004, counsel filed a motion to reopen the application. The CSC director denied the motion on September 7, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 25, 2005, and indicated that he was re-registering for TPS.

The Director, California Service Center, 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.

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 of proceedings reveals that the fingerprints are cleared. Specifically, an FBI fingerprint check conducted in connection with the re-registration application shows no derogatory information. The record contains sufficient evidence to establish the applicant's identity and nationality, his continuous residence in the United States since February 13, 2001, and ample evidence of his continuous physical presence in the United States from March 9, 2001, to the date of filing his initial application. The record of proceedings contains a photo ID with the applicant's fingerprints. 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 applicant. 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.