

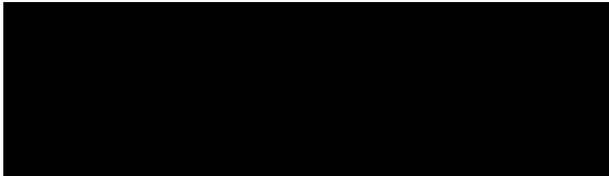
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: California Service Center
[WAC 05 223 90397, as it relates to
SRC 03 043 54627]

Date: JAN 10 2008

INRE: Applicant: [REDACTED]

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 office. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Vermont Service Center. An application for re-registration was also denied by the Director, Vermont 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, 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 April 9, 2001, under CIS receipt number EAC 01 173 50797. The Director, Vermont Service Center, denied the application for abandonment, on March 4, 2002, because the applicant failed to appear for fingerprinting. 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 a subsequent late initial TPS application on November 13, 2002, under CIS receipt number SRC 03 043 54627. The Director, Texas Service Center, denied the application for abandonment, on August 30, 2004, because the applicant failed to submit evidence requested in a June 25, 2004, request for evidence. 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 1-821, Application for Temporary Protected Status, on May 11, 2005, under CIS receipt number WAC 05 223 90397, and indicated that he was re-registering for TPS. The Director, California Service Center, denied that application on December 9, 2005, 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 that he has submitted all the evidence requested, and requests that his TPS application be reconsidered. With the appeal, the applicant submits additional evidence, consisting of photocopies of a birth certificate, dated April 4, 1997, for _____ ≡ 4 Employment Authorization Cards; the biographic page of his El Salvador passport; and, various CIS notices and correspondence.

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 a copy of the applicant's Salvadoran passport which establishes the applicant's identity and nationality, and the evidence contained in the record establishes his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 1, 2001, to the date of filing his initial TPS application, April 3, 2001. The record of proceedings reveals no derogatory information that would bar the applicant from eligibility for TPS. 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 applicant 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.