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U.S. Department of Homeland Security
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**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: California Service Center

Date: **JAN 23** 2008

[WAC 05 207 74662,

as it relates to SRC 03081 54339 & SRC 01 211 57049]

INRE:

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, Texas Service Center. A subsequent application for re-registration 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 21, 2001, under CIS receipt number SRC 01 211 57049. The Director, Texas Service Center, denied the application, on December 24, 2002, because the applicant failed to respond to a request for evidence, issued by the director on August 26, 2002, requesting that the applicant submit evidence within 30 days to establish his continuous residence since February 13, 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 a subsequent Form 1-821, Application for Temporary Protected Status, on January 23, 2003, under CIS receipt number SRC 03 081 54339, and indicated that he was re-registering for TPS. The Director, Texas Service Center, denied that application on February 8, 2003, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

The applicant filed the current Form 1-821, Application for Temporary Protected Status, on April 25, 2005, under CIS receipt number WAC 05 207 74662, and indicated that he was re-registering for TPS. The Director, California Service Center, denied that application on August 16, 2005, because the applicant's prior TPS application had been denied and the applicant was not eligible to re-register for TPS.

The record reflects that on February 16, 2003, the applicant submitted additional evidence, i notarized letters, dated November 1, 2002, one from _____, and the other from _____, each stating that the _____ ked on their lawns since October 2000; and, a letter, dated February 25, 2003, from _____ Manager of _____, stating that the applicant has been employed as a dishwasher since September 27, 2000.

On appeal, the applicant asserts his eligibility for TPS. With his appeal, in an attempt to establish eligibility for TPS, the applicant submits: an affidavit from his mother stating that the applicant has been in the United States since September 2000; an employment reference letter from _____ dated September 3, 2005, stating that the applicant has been employed as a Dishwasher since September 2000; a letter from _____ stating that he has known the applicant since October 2000, and that the applicant has worked at his home doing various jobs; a letter, dated September 2, 2005, from Rev. _____, Associate Pastor of St. Clement Church, stating that the applicant is a registered

member of the church; and, Federal Individual Income Tax Return, Forms - 1040 for the years 2003, and 2004, together with W-2 forms for both years.

The record of proceedings 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 proceeding also contains sufficient evidence to establish the applicant's identity and nationality, his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001 to the date of filing his application. The applicant submitted various reliable documents, including the biographic page of his El Salvador passport, birth certificate, employment records, earnings statements, tax returns, and attestations. The record of proceedings reveals that the Federal Bureau of Investigations (FBI) fingerprint checks conducted in connection with the re-registration applications show no derogatory results. Therefore, the director's decision will be withdrawn and the initial application will be approved.

The director's denial of the applications 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 applications are both approved.