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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COpy



FILE:



OFFICE: California Service Center

DATE: JUN 0' 9 2008

[SRC 01213 56199]

[WAC 05 1266531]

[WAC 08 066 50586, *appeal*]

INRE:

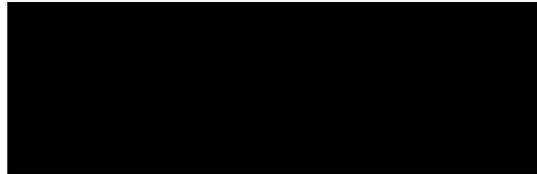
Applicant:



APPLICAnON:

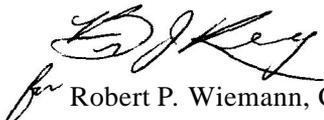
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's initial application was denied by the Director, Texas Service Center (TSC). The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office (AAO), and the application will be approved. A subsequent application for re-registration was denied by the Director, California Service Center (CSC). The matter is currently before the AAO on appeal. The applicant's appeal will be sustained and application 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 applicant filed an initial application for TPS on May 21, 2001, under receipt number SRC 01 213 56199. The TSC director denied the initial application on July 27, 2004, because the applicant had failed to appear for a fingerprinting appointment on March 22, 2004, as requested by the director. The director, therefore, considered that application abandoned and denied the application. 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 applicant filed a re-registration Form I-821, Application for Temporary Protected Status, on February 3, 2005, under CIS receipt number WAC 05 126 76753, and indicated that he was re-registering for TPS. The director denied the re-registration application, on January 25, 2006, because the applicant's initial TPS application had been denied, and the applicant was not eligible to apply for re-registration for TPS. A subsequent appeal was dismissed by the AAO on March 5, 2007. That AAO's decision will be withdrawn.

On appeal, counsel states that the applicant missed his fingerprinting appointment because he never received the notice of the appointment as he had moved. The record of proceeding reveals that the initial request to appear for fingerprinting notice was sent to an incorrect address. The applicant subsequently had his fingerprints processed on February 23, 2005.

Counsel stated on the initial appeal that the applicant had one conviction for driving without a license. The final court disposition is not contained in the record; however, the applicant's Federal Bureau of Investigation (FBI) Fingerprint Results Report does not reflect any grounds that would bar the applicant from receiving TPS. The record also contains sufficient evidence to establish the applicant's continuous residence and continuous physical presence in the United States during the requisite periods. There are no other known grounds of ineligibility; consequently, the director's decision will be withdrawn and the appeal will be sustained.

It is noted the record reflects that the applicant was previously ordered removed from the United States based on a July 20, 1995, order by an Immigration Judge.

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 applicant is eligible for employment authorization under 8 C.F.R. § 274a.12(a)(12).

An alien applying for Temporary Protected Status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this 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.