



U.S. Citizenship
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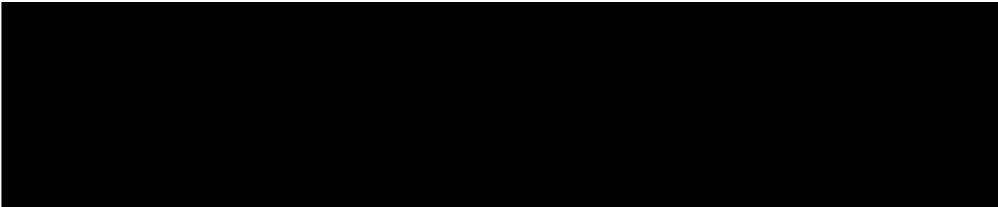


FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **MAR 03 2008**
[WAC 05 319 70597, as it relates to
[SRC 02 026 87604]

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:



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 was denied by the Director, California Service Center, and is currently before the AAO on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office (AAO). The appeal will be sustained and the 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 under receipt number SRC 02 026 87604. The director denied the initial application on December 16, 2004, after determining that the applicant failed to appear for fingerprinting.

However, the record of proceedings reveals that the applicant was fingerprinted prior to and subsequent to the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on August 15, 2005, and indicated that she was submitting an initial application for TPS.

The director treated the application as a re-registration application and denied the application 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, counsel for the applicant states that the director erred in denying the application because it was an initial TPS application which was filed within 60 days of the denial of her asylum application.

CIS records indicate the applicant's asylum application was denied on August 4, 2005, and this TPS application was filed on August 5, 2005, well within the requisite 60 days of eligibility. CIS records also demonstrate that the applicant is the spouse of a TPS-eligible alien. Therefore, the applicant is also eligible for late initial TPS registration on this basis as well.

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

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy,

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consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

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.