



**U.S. Citizenship
and Immigration
Services**

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[REDACTED]

FILE: [REDACTED] Office: California Service Center Date: **MAR 10 2008**
[WAC 06 005 70115]
[SRC 02 265 53923]

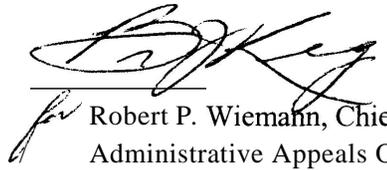
INRE: Applicant: [REDACTED]

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. Any further inquiry must be made to that office.


for 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 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 September 5, 2002, under CIS receipt number SRC 02 265 53923. The Texas Service Center director denied the application, on June 12, 2003, due to abandonment because the applicant failed to submit all of the evidence requested in a February 27, 2003 notice of intent to deny. 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 AAO notes that the director erred in denying the application for abandonment because, as noted by the director, the applicant did respond to the notice of intent to deny. Therefore, the applicant did not abandon her TPS application.

The applicant filed the current Form 1-821, Application for Temporary Protected Status, on October 5, 2005, under CIS receipt number WAC 06 005 70115, and indicated that she was filing an initial TPS application.

The director categorized the application as a re-registration for TPS, and denied the re-registration application on April 6, 2006, 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 reasserts a claim for TPS, and states that she lacked information and an understanding of the English language. With her appeal, the applicant submits:-

- 1) An El Salvador birth certificate with an English translation;
- 2) The biographic page of her El Salvador passport;
- 3) A residential lease, dated January 10, 2000; and,
- 4) Five receipts for merchandise, dated in 2000 and 2001.

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 sufficient evidence to establish the applicant's identity and nationality, her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 1, 2001, to the date of filing her initial TPS application, September 5, 2002. The record of proceedings contains a copy of the applicant's birth certificate, with English translation, and a copy of the biographic page of the applicant's El Salvadoran passport. The record contains documentation, including an Order of Supervision, and related documents, which cumulatively establishes the requisite continuous residence and continuous physical presence. 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 petitioner. 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.