

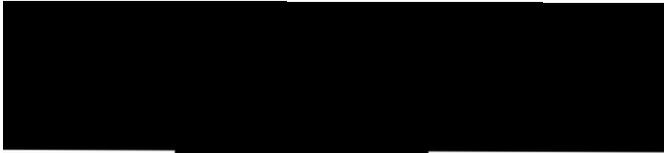
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U.S. Citizenship
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FILE:



OFFICE: California Service Center

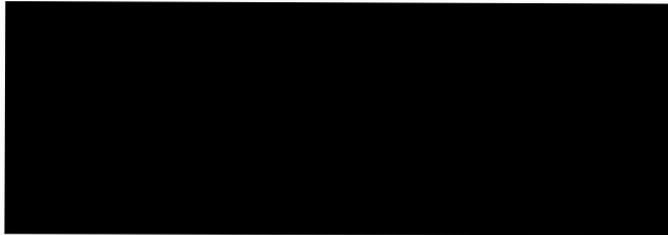
DATE: SEP 11 2008

[WAC 05 210 88330]

[WAC 02 174 52655]

IN RE:

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:

SELF-REPRESENTED

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, California Service Center (CSC). 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 also denied by the CSC director and is currently before the AAO on appeal. The appeal will be sustained, and the applications will be approved.

The applicant is a native and 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 a TPS application during the initial registration period on May 1, 2002, under receipt number WAC 02 174 52655. On March 16, 2004, the applicant was requested to submit additional evidence establishing her continuous residence and continuous physical presence in the United States during the requisite periods. On June 17, 2004, the director denied that application due to abandonment because the applicant failed to timely respond to the request for information. The director incorrectly advised that the applicant could appeal the decision; however, there is no appeal available for a denial due to abandonment. The applicant, in this case, could have filed a request for a motion to reopen within 30 days from the date of the denial. The record does not reflect that the applicant filed a motion to reopen during the requisite timeframe.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 27, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 210 88330, and indicated that she was re-registering for TPS. The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant has now submitted an appeal.

On appeal, the applicant asks CIS to reopen her case and give her an opportunity to respond to the request for additional evidence that she claims she never received. Service records show that a request for additional evidence was sent to the applicant's address of record; the same address provided by the applicant on her initial TPS application. There is nothing in the record to indicate the notice was returned by the U.S. Postal Service as undeliverable. However, the applicant submits the following documentation in an attempt to establish her continuous residence and continuous physical presence in the United States during the requisite periods:

1. A copy of a bank account statement from Wells Fargo Bank dated May 25, 2001;
2. A copy of an Insufficient Funds Notice from Wells Fargo Bank dated September 20, 2001;
3. A copy of a Form 1040, U.S. Individual Income Tax Return, for the year 2001; and,
4. Copies of Forms W-2, Wage and Tax Statement, from Pizza Hut Inc., LA Pizza Loca, Inc., and Carl Karcher Enterprises Inc., for the year 2001.

The record reveals that the applicant has previously submitted the following documentation:

5. Copies of pay stubs from Pizza Hut dated October 23, 2000, and November 6, 2000;
6. A copy of an income tax return for the year 2000;
7. Copies of birth certificates for the applicant's sons showing that they were born in Los Angeles, California, on June 2, 2000, December 18, 2002, and October 6, 2005;
8. Copies of pay stubs from Yoshinoya Restaurants for the year 2002;

9. Copies of pay stubs from L.A. Grand Club, Inc., for the years 2003 and 2004;
10. A copy of a Social Security Statement dated October 13, 2004;
11. A copy of a Form W-2, Wage and Tax Statement, for the year 2004;
12. A copy of a payment receipt from Comcast dated December 1, 2005;
13. Copies of an insurance policy from Lincoln General Insurance Company issued in the year 2006; and,
14. Copies of pay stubs from United Valet Parking, Inc., for the year 2007.

The record contains sufficient evidence to establish the applicant's continuous residence and continuous physical presence in the United States during the requisite periods which establishes the applicant's eligibility for TPS. The record does not reflect any grounds that would bar the applicant from receiving TPS. There are no other known grounds of ineligibility; consequently, the director's decision will be withdrawn and the appeal will be sustained.

In addition, 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.