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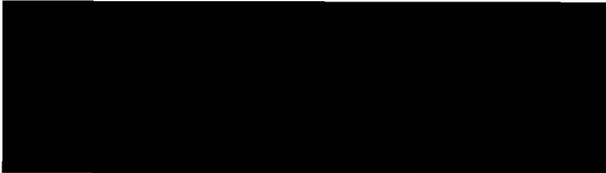
FEB 02 2010

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
Washington, DC 20529-2090

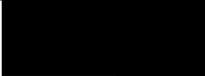


U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

consolidated]

[EAC 04 057 53378]

[EAC 01 201 50708 as it relates to EAC 04 057 53378]

Date: FEB 02 2010

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 Vermont Service Center. Any further inquiry must be made to that office.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The case remanded for further action.

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 applicant filed an initial application for TPS under receipt number EAC 01 201 50708. The director denied the initial application because the applicant had abandoned his application by failing to appear for fingerprinting. The applicant filed a motion to reopen which was denied by the director.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 17, 2003. The director denied the application because the applicant had not established he was eligible for late initial registration.

As stated above, the director denied the initial application after determining that the applicant had abandoned his application by failing to respond to a request to appear for fingerprinting. However, the record reflects that his fingerprints were taken and sent to the Federal Bureau of Investigation, (FBI), by Citizenship and Immigration Services on May 28, 2002, March 17, 2005, April 3, 2006 and on November 13, 2007. The applicant's FBI fingerprint report results identified no derogatory information. Therefore, the application initial application shall not be considered as abandoned.

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 United States Citizenship and Immigration Services (USCIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, 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). The applicant has met this burden. The record does not reflect any grounds that would bar the applicant from receiving TPS. There are no other known grounds of ineligibility; however, the validity period of the applicant's fingerprint check has expired.

Accordingly, the case is remanded for the purpose of sending the applicant a fingerprint notification form, and affording him the opportunity to comply with its requirements. Thereafter, the director will render a new decision. Should the decision be adverse, the director must give written notice setting forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i), and the applicant shall be permitted to file an appeal without fee.

ORDER: The case is remanded for appropriate action and decision consistent with the foregoing.