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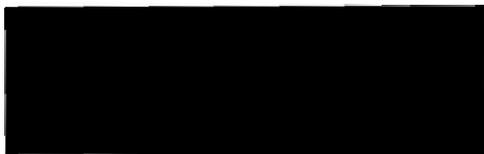
U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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FILE:

[EAC 06 263 71687]

Office: VERMONT SERVICE CENTER

Date: **JAN 07 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:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

  
Perry Rhew  
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO) and is now before the Administrative Appeals Office again on a motion to reopen. The case will be remanded to the director 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 director determined that the applicant failed to establish that he was eligible for filing his TPS application after the initial registration period from March 9, 2001 through September 9, 2002. The director, therefore, denied the application.

The record reveals that the applicant filed a Form I-821, Application for Temporary Protected Status, on September 17, 2001 under receipt LIN 01 268 50552, during the initial registration period. The Director, Nebraska Service Center, denied that application on June 5, 2002, because the applicant failed to establish that he was a national of a foreign state designated by the Attorney General. The applicant filed the current TPS application under receipt EAC 06 263 71687.

On appeal, the applicant claimed that he had met all of the requirements for late registration. The AAO determined that the applicant had submitted sufficient evidence to establish that he had met one of the criteria for late registration. However, the AAO determined that the applicant failed to establish his nationality and identity and therefore denied the application on that basis.

On motion, counsel contends that the AAO erred in concluding that the applicant has not demonstrated that he is a citizen of El Salvador and that the error should be overturned and the applicant should be granted TPS status. In support of this claim, the applicant submitted a copy of his El Salvadoran passport. The record also contains a copy of the applicant's birth certificate.

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 and 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.