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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: DEC 18 2007

[WAC 05 209 81404 as it relates to SRC 01 221 64151]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

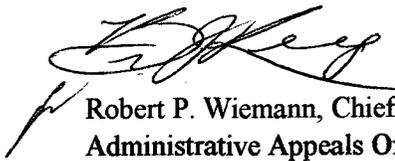
Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

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 (TSC). A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on a late appeal. The matter will be *sua sponte* reopened on Citizenship and Immigration Services (CIS) motion, the applications will be approved and the appeal will be sustained.

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 which was denied by the director on April 8, 2004, because the applicant had abandoned his application by failing to appear for fingerprinting. The case subsequently was reopened and was again dismissed by the TSC Director on May 12, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 27, 2005, and indicated that he 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.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

As indicated above, the applicant filed a late appeal. However, due to the circumstances of the case, AAO will reopen the matter on CIS motion to reopen in order to make a new and favorable decision to the affected party. 8 C.F.R. § 103.5(a)(5)(i). On appeal, counsel respectfully states that the only barrier to eligibility appears to be the applicant's failure to timely submit the required evidence. Counsel requests that his client's application be approved.

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 14, 2004, June 3, 2005, April 26, 2006, and on June 20, 2006. The applicant's FBI fingerprint report results identified no derogatory information.

The applicant has satisfied all other eligibility requirements for TPS. Therefore, the application is 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.

An alien applying for temporary protected status has the burden of proving that he or she meets the above requirements and is eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The denial of the initial application is withdrawn, the appeal for the re-registration application is sustained, and both applications are approved.