

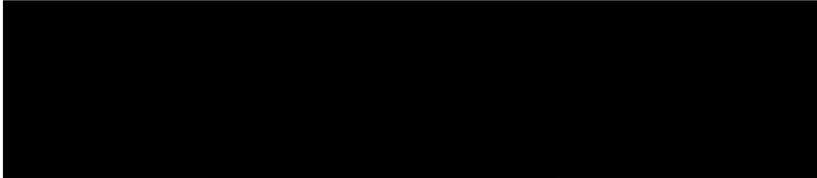
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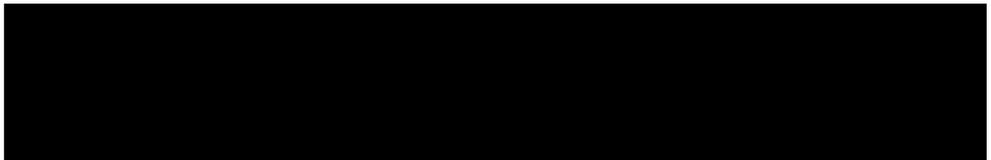


OFFICE: CALIFORNIA SERVICE CENTER DATE: NOV 26 2007

[WAC 05 212 75649]

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 application for re-registration was also denied by the Director, Texas Service Center (TSC), and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be granted, the case will be reopened, *sua sponte*, 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 April 25, 2001, under receipt number SRC 01 195 57473. The TSC director denied that application based on abandonment on April 19, 2004, because the applicant had failed to respond to a request to submit evidence to establish his identity.

The applicant filed the TPS re-registration application on April 30, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 212 75649 and indicated that he was re-registering for TPS. The CSC director denied the re-registration application on November 3, 2005, 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 appealed the CSC director's decision to the AAO on December 1, 2005. The AAO dismissed the appeal on December 5, 2006, after determining that the applicant had not previously been granted TPS; therefore, he was not eligible to re-register for TPS or to renew temporary treatment benefits. The AAO also indicated that if the applicant was attempting to file a late initial application for TPS instead of an annual re-registration, he had failed to provide any evidence to establish that the application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2).

On motion, the applicant states that he was not aware that his [initial] TPS application was denied until he received the CSC director's decision denying his re-registration application on November 3, 2005. He asserts that he has not failed to produce the evidence requested by CIS, and that he had previously presented a copy of his El Salvadoran birth certificate, evidence to establish his identity and nationality, and evidence of his residence in the United States. The applicant submits additional evidence of his residence and physical presence in the United States, and a copy of his El Salvadoran passport issued in Los Angeles, California, on December 11, 2006.

A review of the record of proceeding indicates that the TSC director's request for evidence to establish identity dated January 14, 2004, and the director's notice of decision to deny the application dated April 19, 2004, were both mailed to the applicant's most recent address at that time [REDACTED] CIS database indicates that the notices were returned to CIS as undeliverable.

The applicant subsequently provided with his appeal on December 1, 2005, substantial amount of evidence to establish continuous residence and continuous physical presence in the United States during the requisite periods. He also provided a copy of an El Salvadoran identity card (Cedula), a copy of an El Salvadoran driver license, and a copy of a State of California Commercial Driver License. On motion, the applicant provided a copy of his El Salvadoran passport.

The applicant has overcome the sole ground for the denial of his initial application for TPS. The record of proceeding contains sufficient evidence to establish the applicant's eligibility for TPS and also does not reflect any grounds that would bar the applicant from receiving TPS. Additionally, the applicant has furnished sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Therefore, the decisions of the TSC director and the CSC director to deny the initial application and the re-registration application, respectively, will be withdrawn and the TPS applications will be approved.

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 decision of the TSC director dated April 19, 2004, the decision of the CSC director dated November 3, 2005, and the decision of the AAO dated December 5, 2006, are withdrawn and the TPS applications are approved.