

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

M<sub>1</sub>

[REDACTED]

FILE:

Office: CALIFORNIA SERVICE CENTER

Date: **JAN 13 2009**

[REDACTED]  
[WAC 08 073 51251, motion]  
[SRC 01 211 58302 and WAC 05 172 75688]

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 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).

John F. Grissom, Acting 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 (CSC), and an appeal was dismissed by the Chief, Administrative Appeals Office (AAO). The matter is before the AAO as a late motion. Notwithstanding that the motion is late, because of the circumstances of the case, the matter will be *sua sponte* reopened, and the case will be remanded.

The applicant is stated to be 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 on May 14, 2001, which was denied by the TSC Director on June 16, 2003, because the applicant had abandoned her application by failing to submit documentary evidence to show that [REDACTED] are the same person.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 20, 2005, and indicated that she was re-registering for TPS.

The CSC 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. An appeal was dismissed by the Chief, AAO, on September 13, 2007.

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 motion. However, due to the circumstances of the case, AAO will reopen the matter on Citizenship and Immigration Services motion to reopen in order to make a new decision to the affected party. 8 C.F.R. § 103.5(a)(5)(i).

The director denied the initial application on June 16, 2003, after determining that the applicant had failed to submit documentary evidence to show that [REDACTED] are the same person. The applicant's birth certificate shows that she was born on [REDACTED] in Pasaquino La Union, El Salvador and that her name at birth was [REDACTED]. On April 14, 1999, a birth certificate was issued by the State of Texas reflecting that the applicant's daughter, [REDACTED] was born on [REDACTED] to [REDACTED] born on [REDACTED] in El Salvador. The father's name on [REDACTED] birth certificate was listed as [REDACTED] in El Salvador. The applicant's marriage license shows that [REDACTED] married [REDACTED], born [REDACTED] in Harris County Texas on November 27, 1999. Based on a review of the record, it appears that [REDACTED] are the same person.

Although not previously addressed, however, the applicant has provided insufficient evidence to establish that she is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document to establish her nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1).

The director's denial of the initial and the re-registration application will be withdrawn; the applications will be remanded for a new decision. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

In these proceedings the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The initial and re-registration applications are reopened, the previous decisions are withdrawn and the applications are remanded for the entry of a new decision.