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U.S. Department of Homeland Security
Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536

[REDACTED]

FILE: [REDACTED]
LIN 02 110 53168

OFFICE: Nebraska Service Center

DATE: NOV 18 2003

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 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. §103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Cindy M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish that he is a national of a foreign state designated by the Attorney General and eligible for the granting of Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. The applicant is a citizen and national of Belize and that country has not been so designated under section 244 of the Act.

On appeal, the applicant, maintains that he is eligible for TPS because he is a citizen of El Salvador as well as of Belize. Counsel for the applicant supplements the appeal with a copy of a statement from the Consul General of El Salvador, Chicago, who states that the government of El Salvador regards the applicant as primarily a citizen of that country. Counsel asserts that as a citizen of El Salvador, the applicant is eligible for TPS, and that the only issue on appeal is whether the applicant is bound by the nationality he claimed at the time he entered the United States.

Section 244(c) of the Act, and the related regulations at 8 C.F.R. § 244.2(a), provide that an applicant is eligible for temporary protected status only if such alien establishes that he or she:

Is a national, as defined in section (101)(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;....

The applicant indicated on the Form I-821 application for TPS that he was born in El Salvador. He declared on the application form that he is a citizen of El Salvador/Belize. He claimed in a separate statement submitted with his application for TPS that he was born in El Salvador and lived in that country until he was thirteen years of age, after which time he moved to Belize. The applicant stated that he considers himself to be a citizen of El Salvador, and he asserted that he is recognized as such by the Government of El Salvador because he had never contacted any Salvadoran government official to renounce his citizenship.

The record reflects that the applicant was issued a B-2 nonimmigrant visa by the United States Consul in Belize on July 6, 2000 upon presentation of a passport from Belize. The applicant was subsequently admitted to the United States at Miami, Florida, on October 19, 2000, upon presentation of the B-2 nonimmigrant visa and the passport from Belize. Citizens of Belize are not eligible for temporary protected status. The director, therefore, denied the application for TPS.

On appeal, counsel submits a statement from the Consul General of

El Salvador in Chicago. The consul general indicated in the statement that the Constitution of El Salvador provides that Salvadorans have the right to enjoy "double or multiple nationalities," and that the consulate and other Salvadoran government agencies regard the applicant primarily as a Salvador citizen.

The applicant initially presented himself to the United States government, however, as a citizen of Belize, both at the U.S. Embassy abroad and at the port of entry at Miami, Florida. Counsel asserts that temporary protected status only confers a temporary benefit and the applicant is not bound by the nationality he claimed at the time he entered the United States. However, in *Matter of Ognibene*, 18 I&N Dec. 425 (Reg. Comm, 1983), it was held that in the case of a dual national alien nonimmigrant, the nationality claimed or established by him at the time of his entry into the United States must be regarded as his sole or operative nationality for the duration of his temporary stay in the United States.

As a citizen and national of Belize, the applicant is ineligible for the provisions of section 244 of the Act.

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 § 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.