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U.S. Citizenship
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FILE: [REDACTED]
[LIN 03 071 50281]

Office: NEBRASKA SERVICE CENTER

Date: JUN 29 2004

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: 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
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 (AAO) on appeal. The director's decision will be withdrawn and the matter will be remanded for further consideration and action.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.

On May 29, 2003, the director denied the application filed on December 3, 2002, after determining that the applicant had failed to establish that she had met the continuous residence and physical presence criteria for TPS, and she had failed to establish that she was eligible for filing after the initial registration period from March 9, 2001 through September 9, 2002. The applicant, however, did not indicate on her Form I-821, Application for Temporary Protected Status, that she was filing her first application to register for TPS. Rather, she indicated that she was applying for annual re-registration and provided the file number from her initial application. This application was filed on December 30, 2002. A check of CIS' records indicates that an EAD was issued as a TPS applicant on July 7, 2001. The record does not reflect any attempt by the director to review the applicant's initial application or any prior applications for re-registration before rendering a decision on the current application for re-registration.

On appeal, the applicant submits evidence in support of her claim of eligibility for TPS. The applicant states that she needs an additional unspecified period of time from June 17, 2003 to submit a brief or evidence. To date, the applicant has not submitted any additional evidence; therefore, the record must be considered complete.

It is noted that the applicant's Federal Bureau of Investigation report indicates that she was arrested by the Chicago, Illinois, police on January 3, 2003, and charged with battery. This arrest must be addressed by the director in any future decisions or proceedings.

Based on the foregoing discussion, the case will be remanded so that the director may review all records pertaining to this applicant and issue a new decision. All files relating to this individual's TPS application also shall also be reviewed. The director may request any evidence deemed necessary to assist him with the determination of the applicant's eligibility for TPS.

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

ORDER: The matter is remanded for further consideration and action.