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

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JAN 25 2005

[Redacted]

FILE:

[Redacted]

Office: VERMONT SERVICE CENTER

Date:

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, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn, and the matter will be remanded for further consideration and action.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 July 21, 2003, the director denied an application for re-registration stating that a previous application for TPS had been denied on May 5, 2003.

On appeal, the applicant states that he will submit additional evidence within thirty (30) days of the filing date of the appeal. To date, no statement or additional evidence has been received.

The record indicates that the applicant filed his Form I-821, Application for Temporary Protected Status, on April 10, 2001. On May 5, 2003, the applicant was requested to provide evidence of continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The notice was mailed to the applicant at his address of record, but he failed to respond to the notice.

On July 21, 2003, the director erroneously denied the application for re-registration. The director stated that the applicant is ineligible for re-registration since his initial application was denied on May 5, 2003. The application was not denied on May 5, 2003; the Notice of Intent to Deny was issued on that date. There is no evidence of a denial subsequent to the issuance of the Notice of Intent to Deny and the issuance of this July 21, 2003, denial, alluding to a previous denial dated May 5, 2003. Accordingly, the director shall issue a new decision consistent with the foregoing based on the evidence of record.

It is noted that the applicant has not provided any evidence of identity. Additionally, the applicant has not provided sufficient evidence of continuous residence or physical presence in the United States. Finally, it is noted that the applicant was apprehended by United States Border Patrol Agents at Del Rio, Texas, on November 17, 1999. He was placed in removal proceedings, and issued a Notice to Appear under [REDACTED]

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 decision of the director is withdrawn, and the matter is remanded for further consideration and action.