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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: **DEC 29 2006**
[EAC 01 154 54021]

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:



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DISCUSSION: Approval of the application was withdrawn by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a 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 director withdrew approval of the applicant's TPS because the applicant departed the United States without permission after having been granted TPS.

On appeal, counsel for the applicant submits a brief statement. Counsel indicates that he is sending a brief and/or evidence to the AAO within 30 days of filing the appeal. To date, no additional documentation has been received; therefore, the record is considered complete.

Section 244(c)(3) of the Act, and the related regulations in 8 C.F.R. § 244.14, provide that the director may withdraw the status of an alien granted TPS at any time upon the occurrence of any of the following:

- (1) The alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status;
- (2) The alien has not remained continuously present in the United States from the date the alien was first granted TPS;
- (3) The alien fails without good cause to register with the Attorney General annually within thirty (30) days before the end of each 12-month period after the granting of TPS.

Pursuant to 8 C.F.R. § 244.15, after the grant of TPS, the alien must continuously remain in the United States, and the grant of TPS does not constitute permission to travel abroad.

For the purpose of the provision of § 244.14(2), above, an alien granted TPS shall be deemed not to have failed to maintain continuous physical presence in the United States if the alien departs the United States after first obtaining permission from the director to travel pursuant to § 244.15.

The applicant filed his initial Form I-821, Application for Temporary Protected Status, on March 19, 2001. The application was approved on August 28, 2001. On February 10, 2003, the applicant was apprehended reentering the United States without inspection near McAllen, Texas, without having first obtaining permission to travel pursuant to § 244.15.

On September 6, 2005, the director withdrew approval of the applicant's TPS. The applicant, through counsel, filed his appeal from that decision on September 27, 2005.

On appeal, counsel asserts that the applicant's absence from the United States was a brief, casual, and innocent departure due to an emergency. Counsel has failed to provide any specific information about the nature of the "emergency" or the duration of the applicant's absence from the United States.

Based on the documentation contained in the record, the applicant departed the United States subsequent to the approval of his application without advance permission to depart. Consequently, the director's decision to withdraw the applicant's TPS approval will be affirmed.

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 failed to meet this burden.

ORDER: The appeal is dismissed.