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

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M/

FILE: [REDACTED]  
[WAC 05 118 75935]

Office: CALIFORNIA SERVICE CENTER

Date: JUL 24 2006

IN RE: Applicant:



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 California Service Center. Any further inquiry must be made to that office.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, (CSC), and is now before the Administrative Appeals Office on appeal. 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 record reveals that the applicant filed a Form I-821, Application for Temporary Protected Status, during the initial registration period under Citizenship and Immigration Services (CIS) [receipt number SRC 01 215 54643.] The Director, Texas Service Center, (TSC), denied that application on March 6, 2003, after determining that the applicant had abandoned his application by failing to respond to a Notice of Intent to Deny, (NOID). A subsequent appeal was deemed to meet the requirements of a motion to reopen by the TSC Director and rejected as untimely.

The applicant filed the current application, on January 26, 2005, and indicated that he was re-registering for TPS.

The 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.

The record reflects that the applicant responded to the TSC Director's NOID dated January 14, 2003, on March 14, 2003, after the director had denied his initial TPS application. However, the applicant had already submitted the type of evidence sought by the director in her NOID on September 16, 2002, and that evidence, albeit sparse as to continuous residence and continuous physical presence, was already in the record of proceedings. This evidence should have been considered by the TSC Director when the determination was made concerning his initial application.

As the TSC decision was erroneously issued, the applicant is still eligible to re-register for extension of TPS benefits, and the sole reason stated by the CSC director has been overcome.

It is noted the applicant has provided a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1).

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.

**ORDER:** The denial of the initial application [SRC 01 215 54643], is withdrawn. The case is remanded to the director for the entry of a new initial eligibility determination.