



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 03 264 51314]

Office: VERMONT SERVICE CENTER

Date: NOV 01 2006

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 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: The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded.

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.

The record reveals that the applicant filed a first Form I-821, Application for Temporary Protected Status, on September 3, 2002, during the initial registration period (EAC 03 076 51993 relates). The director denied that application on August 6, 2003. On January 5, 2004, the applicant filed an appeal from the denial decision. The denial of the appeal will be remanded to the director in a separate decision.

The applicant filed the current Form I-821 on September 27, 2003, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits. The director denied the application on the basis that the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS or renewal.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17. If the applicant is applying to renew his temporary treatment benefits, he must have a pending TPS application.

Since the director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application, and the appeal of the denial of the initial application is being remanded, the current appeal will also be remanded to the director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Salvadorans.

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 case is remanded to the director for entry of a new decision.