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U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

PUBLIC COPY

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: SEP 06 2006
[SRC 01 146 62105]

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

for Robert P. Wiemann, Chief
Administrative Appeals Office

**DISCUSSION:** The initial application was denied by the Director, Texas Service Center. This second application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office, (AAO), on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO, and the case will be remanded for further consideration and action.

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 applicant filed a timely initial application for TPS under receipt number SRC 01 146 62105. The director denied the initial application on October 19, 2002, after determining that the applicant had abandoned his application by failing to respond to "Notice of Intent to Deny" (NOID) dated January 30, 2002. It is noted that on that date, the director forwarded the applicant a Request for Additional Information (RAI), and not a NOID. The RAI requested the applicant submit evidence to establish continuous residence and continuous physical presence during the appropriate periods. The applicant asserts that he promptly responded to the RAI. The record of proceedings reveals that the applicant did respond to the RAI, however, the applicant's response is not stamped to show the date when it was received by the director. Therefore, the applicant's assertion concerning his prompt and timely response will be accepted. Therefore, it is found that the director's decision was in error as the record reveals that the applicant had responded to the TSC Director's request for evidence dated January 30, 2002, prior to the denial of his initial TPS application. It is also noted that upon initial submission, the applicant submitted evidence of continuous residence and continuous physical presence, albeit sparse, that should have been discussed in the director's initial determination.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document to establish his nationality. 8 C.F.R. § 244.2(a)(1). The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the application for re-registration is also withdrawn as it is dependent upon the adjudication of the initial application. The director may request any evidence deemed necessary to assist 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 initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.