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

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[REDACTED]

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FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

SEP 06 2006

Date:

[WAC 05 198 77592]

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

for

Robert P. Wiemann, Chief
Administrative Appeals Office

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

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 record reveals that the applicant filed a TPS application during the initial registration period on July 31, 2001 under CIS receipt number LIN 01 239 51731. The Director, Nebraska Service Center denied that application on April 2, 2002, because the applicant failed to establish his continuous physical presence in the United States during the qualifying period. There is nothing in the record to indicate that the applicant appealed the director's decision. The applicant filed a subsequent TPS application during the initial registration period on May 8, 2002.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 16, 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. However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the application filed on April 2, 2002 was stamped "Approved" on June 14, 2002.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision.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 or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, that decision will 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.

Beyond the director's decision, it is also noted that the record contains a Form I-205, Warrant of Removal and Deportation dated August 28, 1996. In addition, a Form I-166, Notice to Deportable Alien was also issued on August 28, 1996 instructing the applicant to appear at the Los Angeles, California district Office on September 27, 1996. The applicant failed to appear

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.