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

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: SEP 1 2 2006
[WAC 05 141 78321]

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

The applicant claims to be 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 2, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 01 232 68662. The applicant filed another TPS application on September 9, 2002, under CIS receipt number SRC 02 275 54762. The Director, Texas Service Center denied these applications on December 18, 2003, because the applicant failed to establish her continuous physical presence in the United States during the qualifying period. However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the director erred in sending the December 18, 2003 denial letter to the applicant's old address, The applicant had provided a new address with her TPS application marked as an application for extension of temporary treatment benefits. This TPS application is date-stamped as received on July 31, 2003, five months prior to the director's decision. Therefore, the applicant was never given the opportunity to appeal the decision.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision.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.

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.