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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship and Immigration Services

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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: APR 30 2007
[WAC 05 222 79524 as it relates to WAC 01 198 52180]

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.

Cindy N. Gomez 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 on appeal. The appeal will be sustained, and the application approved.

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 Form I-821, Application for Temporary Protected Status, under receipt number WAC 01 198 52180. The director denied that application on May 17, 2004, because the applicant had failed to respond to the director's March 9, 2004, Notice of Intent to Deny (NOID) which requested that she provide evidence of her identity, nationality, date of entry, and continuous physical presence and continuous residence.¹

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 10, 2005, and indicated that she 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.

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.

In this case, the applicant has not previously been granted TPS because she had failed to respond to the director's NOID. However, the record shows the director's decision was sent to an address that was not her address of record on May 17, 2004.

A review of the record and the evidence previously submitted establishes that the applicant entered the United States on June 26, 2000, as a non-immigrant visitor and that she continuously resided and was continuously physically present in this country until May 26, 2001, when she submitted her timely application for TPS. The applicant had also submitted a passport from El Salvador. As the applicant has satisfied all other eligibility requirements for TPS, the application is approved.

An alien applying for temporary protected status has the burden of proving that he or she meets the above requirements and is eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The appeal is sustained.

¹ Another NOID also was sent to the applicant on February 3, 2004