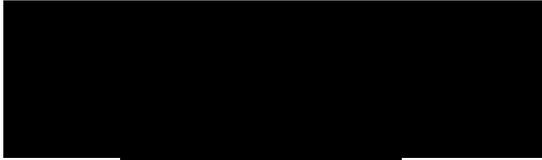




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy



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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: AUG 24 2007

[WAC 05 204 72958]
[EAC 01 221 50413 relates]

IN RE:

Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC), and is currently 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, with the Vermont Service Center (VSC) July 2, 2001 (EAC 01 221 50413 relates). The director of the VSC denied that application on August 20, 2003. The applicant filed an appeal from that decision on September 15, 2003.

On January 29, 2004, the director requested that the case be remanded to the VSC. Accordingly, without addressing the merits of the case, the appeal will be remanded to the director for further processing in accordance with his request in a separate decision.

The applicant filed the current Form I-821 on April 22, 2005, 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 for further consideration and action.