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

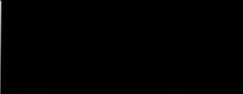
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FILE:



Office: CALIFORNIA SERVICE CENTER

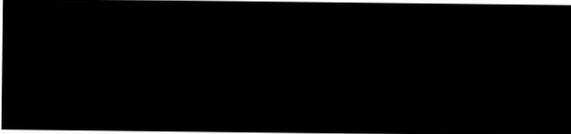
Date:

[WAC 01 167 53268]

[WAC 05 224 80890]

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:

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.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, California Service Center. A subsequent 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, Administrative Appeals Office, and the case will be remanded for further consideration and action.

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 applicant filed an initial application for TPS under receipt number WAC 01 167 53268. On June 28, 2002, the applicant was requested to submit additional evidence to establish her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. The notice was mailed to the applicant's address of record, but was returned to the California Service Center as undeliverable mail. The director denied the initial application on September 17, 2002, after determining that the applicant had abandoned her application by failing to respond to the request for additional evidence. However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the applicant reported an address change on her Form I-765, Application for Employment Authorization, filed with the California Service Center on September 10, 2002, (Receipt number WAC 03 017 55112 relates). Since the denial decision was not mailed to the applicant's most current address, she was deprived of the opportunity to file a timely appeal or motion to reopen her case.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 2005, and indicated that she was re-registering for TPS or renewing her temporary treatment benefits. The director denied the application on October 19, 2005, because the applicant's initial TPS application had been denied and she was not eligible for re-registration or renewal of temporary treatment benefits.

The 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.

It is noted that the record of proceedings, as it is presently constituted, does not contain sufficient evidence to establish the applicant's identity and nationality or her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

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.