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FILE: [REDACTED]  
[WAC 05 154 70147]

Office: CALIFORNIA SERVICE CENTER

Date: MAR 01 2007

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The initial application was denied by the Director, California Service Center (CSC). A subsequent application for re-registration was denied by the Director, CSC, and is currently before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

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 applicant filed an initial application for TPS which was denied by the director on April 21, 2003, because the applicant had abandoned her application by failing to respond to a Notice of Intent to Deny (NOID) dated February 14, 2003, requesting evidence of continuous residence and continuous physical presence.

The director erroneously accepted the applicant's response to the April 21, 2003 decision as an appeal instead of a motion to reopen and forwarded the file to the AAO. However, as the director's decision was based on abandonment, the AAO had no jurisdiction over this case. Therefore, the matter was remanded so the director could consider the applicant's response as a motion to reopen. It was noted that some of the documentation submitted by the applicant appeared suspect.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 3, 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.

The director's denial of the initial application was withdrawn and the application was remanded. The director's denial of the application for re-registration is also remanded as it is dependent upon the adjudication of the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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 re-registration application is remanded for further action consistent with the director's new decision on the initial application.