

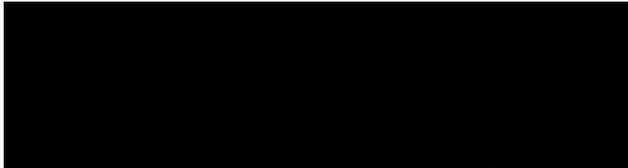
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U.S. Department of Homeland Security
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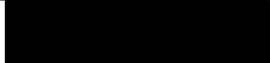


U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date:

[WAC 05 215 75712]

APR 042008

INRE:

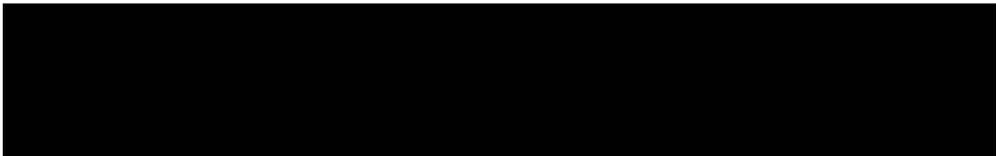
Applicant:



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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was denied by the Director, California Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the case will be remanded for further action.

The applicant is stated to be 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 her initial TPS application on June 28, 2002, under Citizenship and Immigration Services (CIS) receipt number LIN 02 232 52163. The Director, Nebraska Service Center (NSC), requested the applicant to submit evidence to establish her qualifying continuous residence and continuous physical presence in the United States. The applicant was also requested to submit photo identification. The NSC director denied the application on March 10, 2003, due to abandonment because the director determined that the applicant failed to respond to the request for evidence. On April 23, 2003, the applicant filed a motion to reopen which was dismissed by the NSC director.

According to CIS' systems the applicant filed another TPS application [LIN 03 044 51522] on November 26, 2002. That application was denied by the NSC director on May 27, 2003. It is noted that the record of proceedings does not contain the application or a written denial decision on the application.

The applicant filed a subsequent TPS application [LIN 0326950129] on September 12, 2003. The NSC director approved this application on December 1, 2003.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 3, 2005, and indicated that she was re-registering for TPS. The CSC director denied the current re-registration application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant, through counsel, asserts her eligibility for TPS.

A review of the record of proceedings reveals that the applicant's initial and a subsequent application for Temporary Protected Status were denied on March 10, 2003, and May 27, 2003, respectively; however, the applicant's subsequent TPS re-registration was approved on December 1, 2003.

Therefore, the case will be remanded. The director will review all the case files and shall issue a new decision that, if adverse to the applicant, shall be certified to the AAO for review. 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 director's decision is withdrawn. The matter is remanded for further action.