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**U.S. Citizenship
and Immigration
Services**

PUBLIC COpy

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FILE:

Office: TEXAS SERVICE CENTER

Date:

APR 17 2008

[SRC 0117655951]

INRE:

Applicant:

APPLICAnON:

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 California Service Center. Any further inquiry must be made to that office.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was previously denied and reopened on two separate occasions by the Director, Texas Service Center (TSC). The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn, and the matter will be remanded for further consideration and action.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 this initial TPS application on April 11, 2001. On January 23, 2003, the director denied the application. On March 10, 2003, the applicant filed a motion to reopen/reconsider. The director granted the motion to reopen and on July 14, 2003, requested the applicant to submit a Form I-601, Application for Waiver of Inadmissibility, because the director determined that the applicant was inadmissible to the United States due to the applicant's false claim to United States citizenship. The applicant did not respond to this request and, therefore, the director denied the application again on September 8, 2003. On November 20, 2003, the director, on a Service motion, reopened the application, and again requested the applicant to submit a Form I-601. The director determined that the applicant did not submit the requested Form I-601, and therefore, denied the applicant again on April 24, 2004.

Counsel filed another motion to reopen on October 30, 2007, which is now before the AAO. Counsel also submits a Form I-601, Application for Waiver of Grounds of Inadmissibility.

Pursuant to 8 C.F.R. § 244.3(b), Citizenship and Immigration Services (CIS) may waive inadmissibility under the provisions of section 212(a) of the Act in the case of individual aliens for humanitarian purposes, to assure family unity, or when the granting of such a waiver is in the public interest. If an alien is inadmissible on grounds that may be waived, he or she may file for a waiver of grounds of inadmissibility on Form I-601, Application for Waiver of Grounds of Inadmissibility.

Accordingly, the director's decision will be withdrawn and the matter will be remanded for the director to address the Form I-601. 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 case is remanded to the director for further action consistent with the above.