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U.S. Citizenship
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[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: **JAN 29 2008**

[EAC 07 149 70012]
[WAC 02 098 53165]

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:

[REDACTED]

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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), and is now 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number WAC 02 098 53165 during the initial registration period. The Director, Nebraska Service Center (NSC), denied that application on February 19, 2004, after determining that the applicant had abandoned her application by failing to respond to a request for evidence (RFE) dated October 21, 2003. The applicant filed another Form I-821 under receipt number WAC 05 507 73878 on April 25, 2005, and indicated that she was re-registering for TPS. The California Service Center Director denied that application on April 25, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The Chief, AAO, affirmed the director's determination finding that the applicant was not eligible for re-registration and late initial registration.

The applicant filed the current Form I-821 under receipt number EAC 07 149 70012 on February 26, 2007.

As stated above, the NSC Director denied the initial Form I-821 after determining that the applicant had abandoned her application by failing to respond to a RFE dated October 21, 2003. The record reflects that applicant, through her attorney, submitted an address change on September 13, 2003. Although the director used that new address for the February 19, 2004 decision, the applicant's old address was used for the RFE, causing it to fail to reach the applicant.

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, the current decision will also be remanded to the director for further review pursuant to the new decision on the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited above and is otherwise eligible under the provisions of section 244 of the Act.

ORDER: The initial application has been reopened, the director's decision concerning the re-registration application is withdrawn and the application is remanded for further action consistent with the director's new decision on the initial application.