

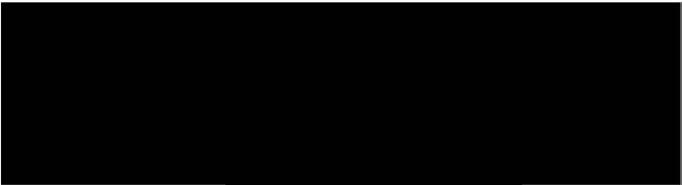


**U.S. Citizenship
and Immigration
Services**

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prevent clearly unwarranted
invasion of personal privacy**

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FILE:



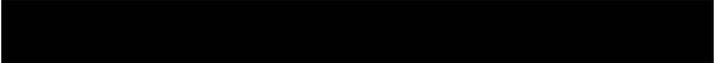
[EAC 02 027 53512]

Office: VERMONT SERVICE CENTER

Date: **JUN 24 2008**

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:

Self-represented

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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

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 The director's decision will be withdrawn and the case will be remanded for further action.

The applicant is a native and citizen of EI 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 September 24, 2001 under Citizenship and Immigration Services (CIS) receipt number EAC 02 027 53512. The Director, Nebraska Service Center, denied that application on July 28, 2003, because the applicant failed to establish her continuous residence and continuous physical presence in the United States during the qualifying period. On August 20, 2003, the applicant filed an appeal from the denial decision.

The applicant filed a re-registration application [EAC 05 138 70537] on February 17, 2005. This form was stamped "Approved" on September 20, 2005.

A review of the record of proceedings reveals that the appeal of the applicant's initial application for Temporary Protected Status which was denied on July 28, 2003 was still pending on September 20, 2005. Therefore the applicant was not eligible for re-registration at that time. However, there is no indication in the record that an approval notice was sent to the applicant.

It is noted that the applicant has provided insufficient evidence to establish her qualifying continuous residence since February 13, 2001 and continuous physical presence from March 9, 2001 to the filing date of the TPS application.

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.