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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: [REDACTED] Office: VERMONT SERVICE CENTER Date: OCT 30 2008
[WAC 05 252 51654, appeal]
[WAC 05 223 91955]

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:

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC), and is now 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 a Form I-821, Application for Temporary Protected Status, during the initial registration period under receipt number WAC 01 173 52171. The director denied the application on November 2, 2004, because the applicant's initial Form I-821 was denied on July 23, 2004. The director denied the current re-registration application on August 16, 2005, because the applicant's initial TPS application had been denied on and the applicant was not eligible to apply for re-registration for TPS. However, the record does not contain a decision dated July 23, 2004, and although a copy of that decision was requested from the CSC Director by the Chief, AAO, it could not be located.

Based on the record, the CSC Director's decisions of November 2, 2004 and August 16, 2005 were premature, because no decision has been made concerning the applicant's initial application.

In these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The initial application is reopened, the director's decision (if any) is withdrawn and the application is remanded. The re-registration applications are remanded for further action consistent with the director's new decision on the initial application.