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FILE: [REDACTED]
[WAC 05 221 80892]

Office: CALIFORNIA SERVICE CENTER

Date: JUN 12 2006

IN RE: 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.

for 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 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 record reveals that the applicant filed a Form I-821, Application for Temporary Protected Status, during the initial registration period under Citizenship and Immigration Services (CIS) [receipt number SRC 01 183 56718.] The director denied that application on May 28, 2003, because the applicant had abandoned her application by failing to respond to a request for evidence regarding her continuous physical presence in the United States during the requisite period.

The applicant filed the current application Form I-821, on May 9, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

The record reflects that on May 17, 2004, the Director, Texas Service Center, (TSC), received a response to her May 28, 2003, request for evidence. Therefore, the TSC director erred by sending the applicant's a denial notice dated May 28, 2003 indicating that she had abandoned her application by not responding to that request for evidence. It is noted that the director made no mention as to the sufficiency of the evidence that had been submitted with the initial application in the decision. Also, the applicant has submitted additional evidence for the record that shall be considered in the further adjudication of this case.

As the TSC decision was erroneously issued, the applicant is still eligible to re-register for extension of TPS benefits, and the sole reason stated by the CSC director has been overcome.

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

ORDER: The denial of the initial application [SRC 01 183 56718], is withdrawn. The case is remanded to the director for the entry of a new initial eligibility determination.