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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: DEC 20 2005

[WAC 04 146 51451]

IN RE:

Applicant:



APPLICATION:

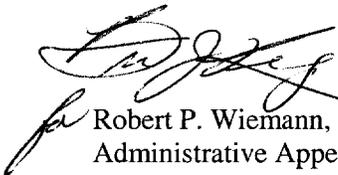
Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further 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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. A subsequent extension of the TPS designation has been granted by the Department of Homeland Security, with validity until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The director denied the current application, filed on April 23, 2004, after determining that the applicant had failed to establish eligibility for filing after the initial registration period from March 9, 2001, through September 9, 2002.

On appeal, the applicant asserts that she had an application for NACARA (Suspension of Deportation/Special Rule Cancellation of Deportation, Form I-881) pending, and that on March 27, 2004, she was informed that the application had been denied; therefore, she filed for TPS benefits under the late initial registration on April 23, 2004.

A review of the record of proceeding indicates that the applicant was granted TPS on an unspecified date, and she was issued an Employment Authorization Card (EAD) on March 19, 2001, valid until March 18, 2002 (8 C.F.R. § 274a.12(a)(12)). This TPS application, however, is not contained in the record. The applicant filed Form I-765, Application for Employment Authorization (WAC 02-092-50888), on January 18, 2002. On June 11, 2002, the applicant was notified that the Form I-765 was transferred to the Los Angeles district office that had jurisdiction over the case. While the record does not contain Form I-589, Application for Asylum or Withholding of Deportation or Removal, it is noted that an EAD card was issued on August 12, 2002, valid until April 12, 2003, based on a pending asylum application (8 C.F.R. § 274a.12(c)(8)). On March 26, 2004, the director denied a Form I-765 (WAC 03 070 53577) due to abandonment because the applicant failed to respond to a request for additional evidence on May 20, 2003.

The record does not reflect the director's acknowledgement or review of the applicant's prior application(s) before a decision was rendered on the current application.

The evidence contained in this file is not sufficient to support the director's decision of denial. Therefore, the case will be remanded. The director shall review all CIS records pertaining to this applicant, and all files relating to this individual's TPS application history shall be consolidated into the applicant's permanent record. The director 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 case is remanded for appropriate action consistent with the above discussion and entry of a new decision.