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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: NOV 02 2005
[WAC 02 193 53597]

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 and reopened by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The matter 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 director initially noted that the applicant did not enter the United States until February 10, 2002. The director, therefore, denied the application on September 5, 2002, because the applicant failed to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On September 30, 2002, the applicant filed an appeal from the director's decision. On appeal, the applicant asserted that he is eligible for TPS because he is the unmarried child of a Salvadoran citizen who "has been granted TPS."

On January 3, 2003, the service center director reopened the matter and issued a notice affording the applicant the opportunity to submit additional evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

The applicant responded to the notice on January 23, 2003. In response to the notice, the applicant submitted additional evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

Although the service center director reopened the matter and issued a new Notice of Intent to Deny, a new decision has not been issued in this case. The matter is remanded for issuance of a new decision.

It is noted that the applicant, on appeal, acknowledged that he entered the United States "after February 13, 2001." His assertion that he qualifies for TPS as the unmarried child of a Salvadoran alien who "has been granted TPS" is incorrect. Under the provision of 8 C.F.R. § 244.2(f)(2), an unmarried child of an alien who has been granted TPS may register for TPS after the expiration of the initial registration period. This provision does not render an alien eligible for TPS simply because he or she is the unmarried child of an alien who has been granted TPS. Since the applicant did not enter the United States until February 10, 2002, he cannot establish continuous residence in the United States since February 13, 2001, or continuous physical presence in the United States since March 9, 2001.

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 matter is remanded for further action consistent with the above and entry of a new decision.