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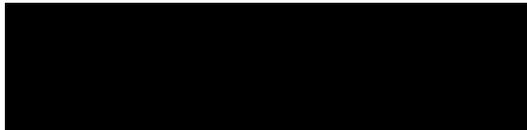
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FILE: [REDACTED]  
[WAC 05 147 78065]

Office: CALIFORNIA SERVICE CENTER

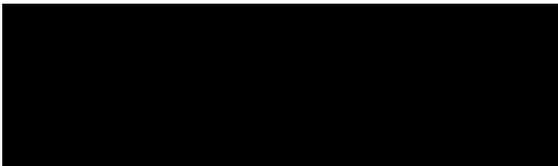
Date: **AUG 25 2006**

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:



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.

*Cindy N. Gomez*

Robert P. Wiemann, Chief  
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 appeal will be sustained.

The applicant is a 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 his initial TPS application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on April 5, 2001, under receipt number WAC 01 173 53080. The director approved the application on September 27, 2003.

The applicant, who had subsequently moved to Logansport, Indiana, filed a second Form I-821, Application for Temporary Protected Status, with the Nebraska Service Center on August 2, 2002, under CIS receipt number LIN 02 255 50080. It is noted that the applicant's initial TPS application, filed with the California Service Center on April 5, 2001, was still pending when the applicant filed the second TPS application with the Nebraska Service Center. The Director of the Nebraska Service Center treated the application as an initial TPS application and denied the application on January 2, 2003, after determining that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. On January 24, 2003, the applicant filed an appeal from the denial decision. The Director of the Nebraska Service Center treated the appeal as a motion to reopen and terminated the proceeding on January 5, 2004, after determining that the applicant had already been granted TPS by the California Service Center on September 26, 2003.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 24, 2005, and indicated that he was re-registering for TPS.

The Director of the California Service Center denied the application on June 24, 2005, stating that the applicant's TPS application filed with the Nebraska Service Center on August 2, 2002, had been denied on January 5, 2004, and the applicant was not eligible to apply for annual re-registration.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17. If an applicant is applying for renewal of temporary treatment benefits, he or she must have a pending TPS application.

In this case, the Director of the California Service Center approved the applicant's initial TPS application on September 26, 2003. The Director of the California Service Center erroneously stated in his denial decision dated June 24, 2005, that the applicant's initial TPS application was denied on January 5, 2004. As previously stated, the Director of the Nebraska Service Center determined on January 5, 2004, that the applicant had previously been granted TPS and terminated the applicant's appeal from the denial decision dated January 2, 2003. The applicant's initial TPS application was approved, and the applicant has filed a re-registration application during each re-registration period for Salvadorans. Accordingly, the director's decision, dated June 24, 2005, will be withdrawn, the appeal will be sustained, and the applicant's re-registration application will be approved.

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. In this case, the applicant has met this burden.

**ORDER:** The appeal is sustained, and the application is approved.