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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: **DEC 27 2006**

[WAC 05 216 87639]

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 California Service Center. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO, and the case will be remanded for further consideration and action.

The applicant is stated to be 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 an initial application for TPS under receipt number SRC 01 176 55860. The director denied the initial application on September 2, 2004, after determining that the applicant had abandoned her application by failing to respond to a Notice of Intent to Deny (NOID) requesting evidence to show that she had resided in the United States since February 13, 2001 and had been continuously physically present in this country since March 9, 2001.

The applicant filed the current application, on May 4, 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.

Prior to the denial of her initial TPS application, the applicant had already submitted the type of evidence sought by the director in her NOID of November 19, 2003. This evidence should have been considered by the TSC Director when the determination was made concerning her initial application. This evidence included a State of Texas marriage certificate showing she married in Montgomery County, Texas on April 3, 2000, medical documentation, the result of a records check that she requested from the office of the Sheriff of Montgomery County, Texas, and her State of Texas identification card. The applicant has provided additional evidence of continuous residence and continuous physical presence since the director's denial of her initial application.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that she is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document to establish her nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1).

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the application for re-registration is also withdrawn as it is dependent upon the adjudication of the initial application. 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 initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.