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**U.S. Citizenship
and Immigration
Services**

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUL 03 2006

[WAC 05 222 78476]
WAC 01 148 51659]

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, 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 case will be remanded to the director for further action.

The applicant claims 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 record reveals that the applicant filed a TPS application during the initial registration period on March 16, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 148 51659. The director denied that application based on abandonment on November 25, 2002, because the applicant failed to respond to a request dated July 15, 2002, to submit evidence: (1) to establish that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present since March 9, 2001; and (2) to establish his identity and nationality. The applicant filed a motion to reopen the director's decision on April 25, 2005, under CIS receipt number MSC 05 223 44667. That motion remains unadjudicated by the director.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 10, 2005. The director denied the application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

As noted above, the applicant filed a motion to reopen the initial TPS application. That motion must be addressed by the director before a decision is made on the applicant's re-registration application. Therefore, the director's decision to deny the re-registration application will be withdrawn.

As the director's initial decision was based on abandonment, the AAO has no jurisdiction on this case. Therefore, the case will be remanded and the director shall consider the motion.

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 case is remanded to the director for further action consistent with the above.