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

M1

FILE:

[WAC 05 224 79855]

Office: CALIFORNIA SERVICE CENTER

Date: **NOV 02 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: 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
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center (TSC). 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 02 041 55568. The director denied the initial application on May 9, 2003, after determining that the applicant had abandoned her application by failing to respond to a request for evidence dated January 9, 2003.

The applicant filed the current application, on May 12, 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.

The TSC Director's Notice of Intent to Deny (NOID) dated January 9, 2003 referred to the applicant's Form I-765, Application for Employment Authorization, and requested that she submit photo identification and/or any national identity document from her country of origin bearing her photograph and/or fingerprint. The NOID also requested that she submit evidence to show that she had resided in the United States since February 13, 2001 and that she had been physically present in this country from March 9, 2001 to the date she filed her application. However, review of the NOID reveals that the document was not properly provided to the applicant as it does not carry her name nor her address. It is noted that the TSC Director sent a second NOID on March 5, 2003 again requesting evidence verifying her identity and showing that she is a citizen or national of El Salvador. However, that notice is also deficient as it does not bear her name nor contain her address.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.

¹ It is not clear from the record whether the original NOIDs mailed to the applicant contained her correct address.