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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

ML

FILE:

[WAC 05 299 7006]

Office: CALIFORNIA SERVICE CENTER

Date: SEP 07 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.

for 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 (AAO) on appeal. The case will be remanded.

The applicant claims to be 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 record reveals that the applicant filed a TPS application during the initial registration period on April 30, 2001, under Citizenship and Immigration Services (CIS) receipt number LIN 01 178 50635. The Director, Nebraska Service Center, denied that application for abandonment on November 14, 2001, because the applicant failed to respond to a request for evidence to establish her nationality and identity, her continuous residence and continuous physical presence in the United States during the qualifying period. There is nothing in the record to indicate that the applicant filed a motion to reopen the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on July 20, 2005, and indicated that she was submitting her first application to register 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. However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the applicant was submitting a first TPS application. In addition, the applicant had a pending asylum application that was administratively closed on May 26, 2005. As stated above, the present application was submitted on July 20, 2005, within the statutorily required 60-day period immediately following the expiration or termination of her asylum application.

The applicant was eligible for submitting a late initial registration. However, the applicant has failed to establish her continuous residence and continuous physical presence in the United States during the qualifying period. The director's denial of the present application will be withdrawn and the application will be remanded for a new decision. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Salvadorans.

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 and entry of a decision.