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

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: NOV 23 2007  
[WAC 03 183 52326]

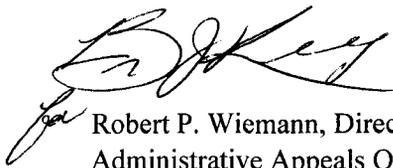
IN RE: Applicant: [REDACTED]

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, Director  
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 for further consideration and action.

The applicant is stated 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 reflects that the applicant's initial TPS application was filed September 11, 2002. The director denied the application on October 7, 2003, because the applicant failed to establish that he is a national of a foreign state designated by the Attorney General and eligible for the granting of Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. The director determined that the applicant is a citizen and national of Guatemala and that country has not been so designated under section 244 of the Act.

The applicant, on appeal, states that he is eligible for TPS as a citizen of El Salvador because he lived there before he came to the United States and his father was born in El Salvador.

Section 244(c) of the Act, and the related regulations at 8 C.F.R. § 244.2(a), provide that an applicant is eligible for temporary protected status only if such alien establishes that he or she:

Is a national, as defined in section (101)(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;....

Pursuant to section 244(c) of the Act, an alien who is a national of a foreign state designated under subsection (b) of this section (or in the case of an alien having no nationality, is a person who last habitually resided in such designated state) and who meets the requirements of subsection (c) of this section, may be granted TPS in the United States. Further, 8 C.F.R. § 244.2(a) provides that an alien who is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act, may, in the discretion of the director, be granted TPS. Section 101(a)(21) of the Act defines the term "national" to mean a person owning permanent allegiance to a state.

It is noted that the applicant initially submitted a Form I-821, Application for Temporary Protected Status, on which he stated that he was born in [REDACTED] and that he was a citizen of Guatemala. The TPS application was rejected and returned to the applicant on November 26, 2002, because the applicant was not a national of a foreign state designated by the Attorney General and eligible for the granting of TPS under section 244 of the Act. On May 5, 2003, the applicant submitted a corrected TPS application which states that he was born in [REDACTED] and that his country of citizenship is El Salvador. In support of his application, the applicant submitted a copy of his birth certificate, with English translation, reflecting that he was born in Guatemala on September 2, 1976; a copy of a birth certificate, with English translation, for his father, [REDACTED] who was born in Ereguayquin, Usulután, El Salvador, on August 26, 2002; and a copy of an unclear identification card (in Spanish), issued by a "Ministerio de Educacion," on December 31, 1998, which was not accompanied by an English translation.<sup>1</sup>

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<sup>1</sup> It is not clear which country issued this document.

As noted above, the applicant indicated on his corrected TPS application that he was a citizen of El Salvador, and claims derivative El Salvadoran citizenship by virtue of his parentage as indicated by his father's birth certificate which shows that his father is a native of El Salvador. The director, however, concluded that the applicant is a citizen of Guatemala by virtue of his birth in Guatemala, and is not a citizen of El Salvador. It is noted that while the applicant claims to be a citizen of El Salvador, and has submitted his father's El Salvadoran birth certificate, he has not submitted any official documentation from El Salvador to establish that he was a citizen of that country at the time of his birth.

It is also noted that the applicant has not submitted sufficient evidence to establish his nationality and identity. The applicant has furnished a copy of a birth certificate and English translation; however, he has not submitted a national identity document from his country of citizenship bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1)

The director's denial of the application will be withdrawn; the application will be remanded, and the director shall re-issue the request for evidence to afford the applicant an opportunity to submit evidence to establish his eligibility for TPS, including evidence to establish his identity and citizenship. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to El 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 new decision.