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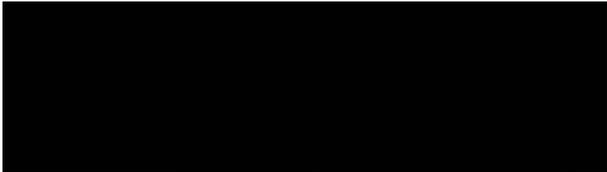
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



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

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **APR 02 2008**
[EAC 02 009 50450]

INRE: 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:
[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office. 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 Director, Vermont Service Center (VSC), denied the initial application. The Administrative Appeals Office (AAO) dismissed the appeal. The matter is now before the AAO on a motion to reopen. The motion will be granted. The director's decision will be withdrawn and the appeal will be remanded to the director for further action in accordance with this decision.

The applicant is a native and citizen of El Salvador who seeks Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1254.

The director denied the re-registration application because the applicant had not previously been granted TPS. The AAO affirmed the director's decision and dismissed a subsequent appeal.

On motion, counsel for the applicant asserts that the applicant is eligible for TPS. Counsel further asserts that the applicant's motion to reopen was erroneously applied to her second application for TPS.

The record reflects that the applicant filed a TPS application on October 11, 2001 (EAC 02 009 50450) - during the initial registration period for Salvadorans. The applicant's former **attorney** submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative, along with the application. In support of her application, the applicant submitted photocopies of the following documents:

- her Salvadoran national identity document, with translation;
- a Form I-220A, Order of Release on Recognizance, dated October 21, 1999;
- a letter from [REDACTED] asserting that he had known the applicant since October 2000, when she arrived in the United States from El Salvador; and,
- a letter from [REDACTED] dated July 5, 2001, asserting that he had been renting a room to the applicant since October 2000.

On October 28, 2002, CIS mailed a request for evidence (RFE) to former counsel, but not to the applicant. The director requested that the applicant submit evidence of qualifying continuous residence and continuous physical presence. The applicant did not respond to the director's request.

On November 14, 2002, the applicant filed a re-registration application (EAC 03 079 50909).

On May 22, 2003, the director deemed the initial application (EAC 02 009 50450) abandoned, due to the applicant's failure to respond to the RFE. On May 29, 2003, the director re-mailed the denial notice to the applicant at the address listed on her initial and re-registration applications. The applicant was informed that a denial for abandonment could not be appealed, but that she could file a motion to reopen within 30 days from the date of the denial.

On May 29, 2003, the director denied the applicant's November 14, 2002, re-registration application (EAC 03 079 50909), finding that the applicant's initial application had not been approved and she was, therefore, not eligible for re-registration.

On June 30, 2003, the applicant, through current counsel, filed a motion to reopen the director's denial for abandonment. The applicant explained that she did not receive the director's RFE and that her former attorney had not forwarded the RFE to her. Along with her motion, the applicant also submitted the following:

- An affidavit;
- A Notice to Appear;
- A handwritten letter from [REDACTED], dated May 27, 2003, asserting that she knows the applicant and that, since November 1999, the applicant had always been a hard worker; and,
- A letter from [REDACTED], dated May 27, 2003, asserting that he had been renting a room to the applicant since October 1999.

The AAO affirmed the director's denial of the re-registration application.

On motion, counsel for the applicant asserts that the applicant is eligible for TPS. Counsel further asserts that that the applicant's motion to reopen was erroneously applied to her second application for TPS.

It appears that the director never adjudicated the applicant's June 30, 2003, motion to reopen and the file was forwarded to the AAO as an appeal from the denial of the re-registration.

Therefore, the case will be remanded so that the director may adjudicate the motion to reopen the denial of the initial application.

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 for appropriate action consistent with the above discussion.