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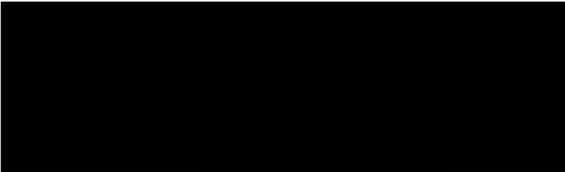
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

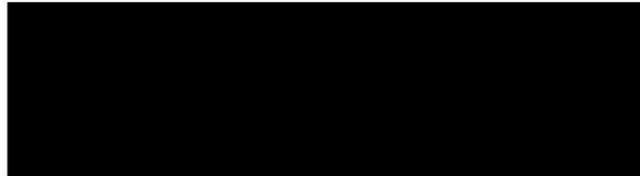
Date: OCT 02 2008

[WAC 05 210 51965, appeal]

[WAC 05 222 88816]

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, California Service Center (CSC). A subsequent application for re-registration was denied by the CSC Director, and is currently before the Administrative Appeals Office 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 Form I-821, Application for Temporary Protected Status, during the initial registration period which was denied by the director on November 26, 2002 under receipt number WAC 01 229 51842 because the applicant had abandoned her application by failing to respond to a Request For Evidence (RFE), that she provide evidence of her continuous residence and continuous physical presence during the required periods.

The applicant filed the current application on May 10, 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 record reflects that the applicant responded to the CSC Director's RFE dated July 8, 2002, on January 7, 2003, after the director had denied her initial TPS application. However, the applicant had already submitted the type of evidence sought by the director in her RFE with her application, and that evidence as to continuous residence and continuous physical presence, was already in the record of proceedings. This evidence should have been considered by the director when the determination was made concerning her initial application. It is noted that the applicant also responded to RFE's dated October 30, 2001, August 15, 2001 and April 3, 2002.

As the decision was erroneously issued, the applicant is still eligible to re-register for extension of TPS benefits, and the sole reason stated by the CSC director has been overcome.

It is noted the applicant has provided a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1).

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act.

ORDER: The initial application is reopened, the director's decision is withdrawn and the application is remanded. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.