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U.S. Citizenship  
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[REDACTED]

FILE: [REDACTED] Office: VERMONT SERVICE CENTER  
[WAC 08 045 80967 as it relates to LIN 02 254 52729]

Date: OCT 15 2008

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The initial application was denied by the Director, Nebraska Service Center (NSC). A subsequent application for re-registration was denied by the Director, Vermont Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The case will be *sua sponte* reopened, the appeal will be sustained and the applications will be approved.

The applicant is 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 LIN 02 254 52729 which was denied by the director on January 18, 2003, because the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the regulatory periods. The applicant did not appeal that determination.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on October 22, 2007, and indicated that he 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.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

As stated above, the NSC Director denied the initial application because the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the regulatory periods. In making that decision, the NSC Director considered two pieces of evidence that the applicant had forwarded in response to the director's September 10, 2002 request for evidence, a photocopy of an envelope addressed to [REDACTED] "the current resident" in Provo, Utah, postmarked May 10, 2001, from Gigante Express and a sales order from dated January 3, 2001, from [REDACTED] Home Furnishings showing merchandise was shipped to the applicant to an address in Provo, Utah. However, the director did not consider additional evidence that was reflected in the record including:

1. A copy of a Western Union money transfer from a firm in Provo, Utah, showing that the applicant sent funds to a person in El Salvador on December 11, 2000.
2. A copy of a Western Union money transfer showing that the applicant sent funds to a person in El Salvador on January 4, 2001.
3. A copy of an affidavit dated July 22, 2002, from [REDACTED], owner of the Mi Rancherito Mexican Restaurant in Payson, Utah, stating that the applicant worked in his restaurant as a dishwasher since December 2000 and that he is still employed.

On August 7, 2006, the applicant submitted a copy of an AFEX money transfer showing he sent funds to a person in El Salvador on March 29, 2001.

It is determined that the applicant had provided convincing evidence to establish his continuous residence since February 13, 2001 and continuous physical presence since March 9, 2001 until his initial application was filed on August 6, 2002. 8 C.F.R. § 244.2 (b) and (c). The applicant has satisfied all other eligibility requirements for TPS. Therefore, the application is approved.

The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being approved, the appeal from the denial of the re-registration will be sustained and that application will also be approved.

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

**ORDER:** The denial of the initial application is withdrawn, the appeal for the re-registration application is sustained and both and intervening applications are approved.