

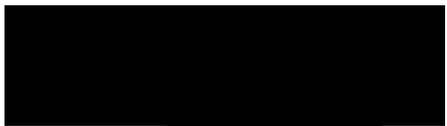


U.S. Citizenship
and Immigration
Services

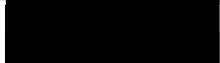
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FILE:



OFFICE: California Service Center DATE: SEP 02 2008

[WAC 05 123 73130]

IN RE:

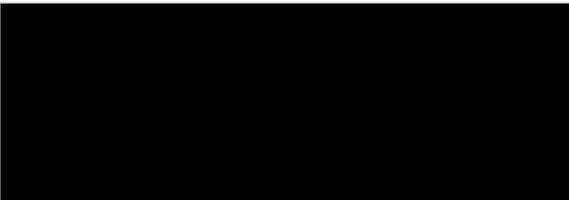
Applicant:



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.

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 on appeal. The case will be remanded to the director for further 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 reveals that the applicant filed a TPS application during the initial registration period on August 15, 2002, under receipt number SRC 02 247 53328. On January 29, 2003, the applicant was requested to submit additional evidence establishing her nationality and her continuous residence and continuous physical presence in the United States during the requisite periods. On April 28, 2003, the Director, Texas Service Center, denied that application because the applicant failed to respond to the request for additional evidence. The record does not reflect that the applicant filed a motion to reopen within the allotted time frame.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 18, 2005, and indicated that she was re-registering for TPS. The Director, California Service Center, denied the re-registration application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant has now submitted an appeal from the director's decision.

On appeal, counsel states that the applicant has never received a notice that her initial TPS had been denied although the applicant had properly informed CIS of her current address. Counsel further states that the request for evidence might have been sent to the applicant's former counsel who refused to give the applicant information about her case.

The record of proceeding, however, does not contain the director's notice denying the applicant's initial TPS application (SRC 02 247 53328). Therefore, the case is remanded for the inclusion of the director's decision and any other necessary documentation into the record of proceeding. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

It is noted that the applicant has not submitted any photo identification establishing her nationality nor did she submit sufficient evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

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.