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**U.S. Department of Homeland Security
Citizenship and Immigration Services**

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N. W.
Washington, DC 20536



File:



Office: Vermont Service Center Date:

DEC 31 2003

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 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Cindy M. Gomeny
Robert P. Wiemann, Director
Administrative Appeals Office *for*

DISCUSSION: The application was denied by the Director, Vermont Service Center. The application is now before the Administrative Appeals Office on appeal. The case will be remanded for further consideration and action.

The applicant is a native and citizen of El Salvador who indicated on his application that he entered the United States on May 25, 1993, without a lawful admission or parole. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because he found that the applicant had failed to provide requested evidence disclosing the final court dispositions for his arrests.

An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. Section 244(c)(2)(B)(i) of the Act.

In response to a request for additional evidence the applicant provided information relating to an August 29, 1999, arrest in Prince George's County, Maryland.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on April 10, 2002. On appeal, the applicant submitted documentation showing that the criminal charges cited by the director had been dismissed.

The applicant has overcome the grounds for denial cited by the director; consequently, the director's decision will be withdrawn. However, the applicant has not submitted any evidence to establish his residence or physical presence in the United States after December 8, 2000. Therefore, the case will be remanded for a new decision that fully addresses the applicant's claim. The director may request any evidence deemed necessary to assist him with the determination of the applicant's eligibility for TPS. 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 director's decision is withdrawn. The matter is remanded for further action.