



U.S. Citizenship  
and Immigration  
Services

[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date:

OCT 07 2004

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

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**DISCUSSION:** The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded.

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 director determined that the applicant had failed to establish he had been continuously physically present in the United States since March 9, 2001. Therefore, the director denied the application.

The applicant filed an appeal and that appeal is now before the AAO.

On February 9, 2004, the director requested that the case be remanded to the VSC. Accordingly, without addressing the merits of the case, the appeal will be remanded to the director for further processing in accordance with his request.

It is noted that a Federal Bureau of Investigations fingerprint report indicates that the applicant was previously arrested on December 13, 1995, at Clarkstown, New York. This issue also must be addressed by the applicant and/or counsel, with final court dispositions. It is also noted that the applicant failed to identify this arrest on his TPS application, under penalty of perjury.

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**ORDER:** The director's decision is withdrawn.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 case is remanded to the director for further consideration and action.