



U.S. Citizenship
and Immigration
Services

FILE:

Office: VERMONT SERVICE CENTER

Date:

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

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, 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 continuously resided in the United States since February 13, 2001. Therefore, the director denied the application.

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

On February 2, 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 Investigation (FBI) report indicates that the applicant was arrested for entry into the United States without inspection, under the name of [REDACTED] March 22, 2000. This raises questions about the applicant's identity and it also appears that the applicant is unable to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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ORDER: The director's decision is withdrawn.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.