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**U.S. Citizenship  
and Immigration  
Services**



**MI**

FILE:



Office: VERMONT SERVICE CENTER

Date:

**AUG 02 2005**

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.

for 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 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 denied the TPS application on July 24, 2003, because a previous application for TPS had been denied.

On August 21, 2003, the applicant filed an appeal from the director's decision. On appeal, the applicant provides two additional documents.

The record indicates that the applicant filed his initial Application for Temporary Protected Status (Form I-821) on July 13, 2001.

On February 20, 2003, in a notice of intent to deny, the director requested that the applicant provide evidence of his continuous residence and his continuous physical presence in the United States during the requisite timeframes. The applicant failed to respond to the notice of intent to deny. On May 5, 2003, the Service issued a second notice of intent to deny, with the applicant's current address. Again, the applicant was requested to submit evidence of his continuous residence and his continuous physical presence in the United States during the requisite timeframes. The applicant again failed to respond to the notice of intent to deny.

On July 24, 2003, the director denied the TPS application indicating that the May 5, 2003, notice of intent to deny, was a denial notice, and that his denial was based upon a previously denied TPS application.

As the applicant filed his initial application on July 13, 2001, and no previous applications had been filed, the director's decision is in error. Therefore, the matter is remanded to the director for the issuance of a new decision based on the evidence of record.

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 entry of a new decision.