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U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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FILE:



Office: Vermont Service Center

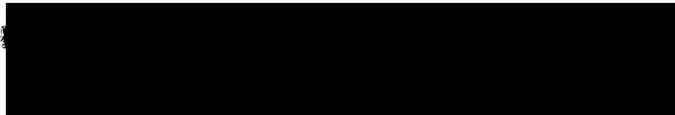
Date:

AUG 29 2005

[EAC 03 076 51570]

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, 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 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 record reveals that the applicant filed his application on October 15, 2002. On May 12, 2003, the applicant was requested to submit evidence establishing his eligibility for TPS late registration. The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In addition, the applicant was requested to submit a copy of his I-94, Arrival-Departure Record. The record does not contain a response from the applicant; therefore, the director denied the application on August 15, 2003.

However, while the director's decision states: "your application is denied", the specific reason for the denial is not indicated. Under 8 C.F.R. § 103.3, "the officer shall explain in writing the specific reasons for denial."

It is noted that the applicant stated on the Form I-821, Application for Temporary Protected Status, that he did not enter the United States until July 16, 2002. Therefore, he could not have met the requirements that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present since March 9, 2001. Further, it also is noted that another record, [REDACTED] relating to the applicant's deportation proceedings was created at San Ysidro, California, on September 21, 1992.

The case is remanded for the issuance of a new decision that sets forth the specific reasons for the denial.

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 entry of a new decision.