

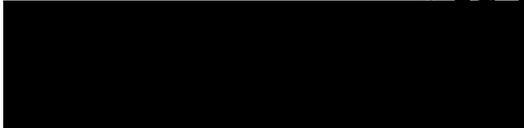
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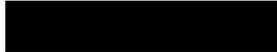
U.S. Citizenship
and Immigration
Services

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FILE:



Office: Vermont Service Center

Date:

AUG 29 2005

[EAC 03 259 53276]

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 her application on September 13, 2003. On October 16, 2003, the applicant was requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The record does not contain a response from the applicant; therefore, the director denied the application on January 16, 2004.

The director denied the application because the applicant had failed to respond to a request for evidence, and that therefore, the grounds for denial had not been overcome. 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 record of proceedings contains three affidavits indicating that the applicant did not enter in the United States until October 2002. In addition, the applicant asserted, under penalty of perjury, on her Form I-821, Application for Temporary Protected Status, that she did not enter the United States until "10/2002." Therefore, she could not have met the continuous residence and continuous physical presence requirements for El Salvador TPS.

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.