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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: DEC 13 2005
[REDACTED]
[EAC 02 149 51703]

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
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 to the director for further action.

The applicant claims 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.

Pursuant to 8 C.F.R. § 103.3 (a), when an officer denies an application or petition, the officer shall explain in writing the specific reasons for denial.

The director denied the application on September 4, 2003, because the applicant failed to "submit any evidence you thought would overcome the grounds of denial." The director, however, failed to explain the specific reasons for the denial.

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

Based on the Federal Bureau of Investigation (FBI) fingerprint results report, contained in the record of proceeding, the applicant was requested on June 26, 2003, to submit final court dispositions of all of his arrests. It is noted that the record reveals the following offenses:

- (1) The record of proceeding contains the record of the Municipal Court of Los Angeles, Van Nuys Judicial District, County of Los Angeles, California, indicating that on November 19, 1996, under Case No. [REDACTED] (arrest date November 16, 1996), the applicant (name used: [REDACTED]) was indicted for Count 1, theft of property, 484(a) PC, a misdemeanor; Count 2, burglary, 459 PC, a misdemeanor; and Count 3, theft of property, 484(a) PC, a misdemeanor. The applicant was convicted on November 19, 1996, of Count 3. He was sentenced to serve 4 days in the county jail. Counts 1 and 2 were dismissed.
- (2) The FBI report shows that on September 3, 2000, in Fairfax, Virginia, the applicant (name used: Isaac Fuentes) was arrested for Count 1, forging, uttering, Virginia Code § 18.2-172, a felony; and Count 2, forging, uttering, Virginia Code § 18.2-172, a felony. The applicant failed to submit the final court disposition of these charges although he was requested to submit final dispositions of all of his arrests.

On appeal, the applicant submits a copy of a Warrant of Arrest (Capias) issued by the Fairfax County-Criminal Division, General District Court, Virginia, based on the applicant's failure to appear in court for a hearing regarding the charges for "felony-utter bad check, forgery," under Case No. [REDACTED]. The final disposition of this offense is not reflected in the record. Failure to appear [for a hearing of an offense found to be a felony], under Virginia Code § section 19.2-128, also is a felony.

It is also noted that there is an outstanding warrant of removal issued at Los Angeles, California, on March 18, 1999, under initial record A74 800 103.

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.