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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

MI



FILE:

[REDACTED]  
[EAC 01 189 50811]

Office: VERMONT SERVICE CENTER

Date:

DEC 21 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.

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 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 the following offenses:

- (1) On August 23, 1994, the applicant was arrested by the Salinas, California Sheriff's office and charged with "Carry Loaded Firearm."
- (2) On August 29, 1994, the applicant was arrested by the Salinas, California Sheriff's office and charged with "Unlawful Firearm Activity", "Carry Loaded Firearm in a Vehicle" and "False Information to a Police Officer."
- (3) On October 27, 1998, the applicant was arrested by the New York City Police Department and charged with "BF 1 Aslt 1<sup>st</sup>", "DF 2 Aslt 2", "AM 4 Crim Possession of a Weapon-4", and, "OV2 Harassment 2<sup>nd</sup>."

The applicant filed her application on April 25, 2001. On April 28, 2004, the applicant was requested to submit court documentation relating to her criminal record. The record does not contain a response from the applicant; therefore, the director denied the application on August 30, 2004.

However the director's decision states that the application was being denied because the applicant failed to establish she had continuously resided in the United States since February 13, 2001; and been continuously physically present in the United States since March 9, 2001.

The case is remanded for the issuance of a new decision that sets forth the correct 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.