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

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FILE:

[REDACTED]

Office: Vermont Service Center

Date: JUN 15 2005

[EAC 01 199 52663]

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:

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.

Cindy N. Gomez 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 (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 May 18, 2001. On August 7, 2003, the applicant was requested to submit additional evidence establishing her qualifying residence and physical presence in the United States. The applicant responded to the director's request on September 8, 2000 (at the same time she filed her application for re-registration), with some evidence in an attempt to establish her continuous residence and continuous physical presence in the United States during the requisite time periods for El Salvador TPS. The director denied the application on October 20, 2003, and noted that the record did not include a response from the applicant to the request for evidence.

A review of the record of proceedings reveals that the applicant had responded to the director's request before the director's decision to deny her application. As such, it appears the director erred in her conclusion and did not consider the applicant's response in the decision. It is also noted that the director did not specifically state the reason for the denial.

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

Therefore, the case will be remanded. If after consideration of the applicant's timely response (contained within the T file with the application for re-registration) the director still finds the application deniable, the director shall issue a decision citing the specific reasons for 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.