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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: **MAR 21 2005**

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.

Cindy N. Gomez

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 director denied the application on October 3, 2003; however, the specific reason for the denial decision is not indicated.

Pursuant to 8 C.F.R. § 103.3, "the officer shall explain in writing the specific reasons for denial."

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

It is noted that the applicant has not provided sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. It is further noted that the record contains a Federal Bureau of Investigation (FBI) report indicating that the applicant was arrested by police officers in Fairfax County, Virginia, on December 31, 1999, and charged with "Hit and Run - Personal Injury." The applicant provided photocopies of a summons indicating that the applicant was arrested by a Fairfax County police officer on December 31, 1999, and charged with "Driving While Intoxicated," section 82-1-6 (18.2-266). The record also contains a court document indicating that the applicant was subsequently convicted of this charge in the Fairfax County General District Court in Fairfax, Virginia, on March 28, 2000. Neither counsel nor the applicant has provided an explanation for this apparent discrepancy in the applicant's criminal charge(s) relating to his arrest on December 31, 1999.

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 director's decision is withdrawn. The case is remanded to the director for entry of a new decision.