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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: NOV 28 2005
[EAC 03 260 50540]

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 M. 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 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.

The record of proceedings reflects that the applicant had filed two applications for TPS. The applicant's initial application filed on January 24, 2002 was denied due to abandonment on May 30, 2003, because the applicant failed to appear for his scheduled fingerprinting appointment. Since the application was denied due to abandonment there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on September 17, 2003. On November 17, 2003, the applicant was requested to submit evidence establishing his eligibility for TPS late registration. In addition, the application was requested to submit evidence establishing his continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the date of filing his application. The record does not contain a response from the applicant; therefore, the director denied the application on January 27, 2004.

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."

Therefore, 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.