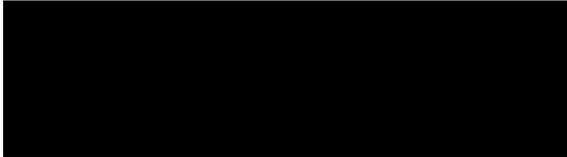


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prevent clearly unwarranted
invasion of personal privacy**



U.S. Citizenship
and Immigration
Services



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FILE: [REDACTED]
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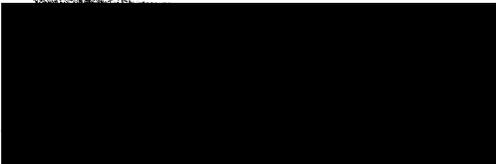
OFFICE: VERMONT SERVICE CENTER

DATE: OCT 03 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:



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 (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 a Service officer denies an application or petition, the officer shall explain in writing the specific reasons for denial.

The director denied the application because the applicant failed to “submit any evidence you thought would overcome the grounds of denial.” The director, however, failed to explain the specific reason for the denial.

Therefore, 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 record of proceeding contains the following adverse information relating to the applicant:

- (1) The Federal Bureau of Investigation (FBI) fingerprint results report shows that the applicant was arrested on June 4, 2000, in Washington, DC, for assault with dangerous weapon (other). The record shows that the applicant was subsequently convicted of simple assault on October 19, 2000.
- (2) The record of the Government of the District of Columbia, Department of Motor Vehicles (show cause hearing) indicates that the applicant was arrested on October 21, 2001, for driving while intoxicated. While the record shows that the applicant was subsequently placed on supervised probation, the court’s final disposition of this offense is not contained in the record.
- (3) The applicant appears to be inadmissible to the United States, pursuant to section 212(a)(1)(A)(i) of the Act, because he was afflicted with a communicable disease of public health significance, namely, human immunodeficiency virus (HIV). Counsel has submitted Form I-602, Application by Refugee for Waiver of Grounds of Excludability; however, there is no indication that this application was properly filed, with fee, at the appropriate district office or service center.

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 further action consistent with the above and entry of a new decision.