



U.S. Citizenship  
and Immigration  
Services

Identifying data deleted to  
protect identity of unrepresented  
applicants of persons of interest

PUBLIC RELEASE



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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: 11/11/05  
[EAC 01 211 51758]

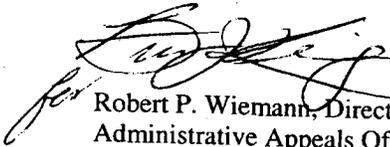
IN RE: Applicant: [REDACTED]

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.

  
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 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.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

Pursuant to 8 C.F.R. § 103.3 (a), when an 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 reasons for the 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 submits, on appeal, records of the District Court of Maryland for Montgomery County indicating that on February 9, 2001, under Case No. [REDACTED] the applicant was convicted of assault in the second degree. Maryland Criminal Law § 3-203 states that "a person who violates this section is guilty of the misdemeanor of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$2,500 or both." While 8 C.F.R. § 244.1 defines a "felony" as a crime punishable for a term of more than one year, the regulation provides for an exception when the offense is defined by the State as a misdemeanor and the sentence actually imposed is one year or less regardless of the term such alien actually served. In this case, assault in the second degree is defined by the State of Maryland as a misdemeanor and the applicant was sentenced to probation for a period of 12 months. Therefore, the applicant qualifies for this exception, pursuant to section 244 of the Act, and the crime shall be treated as a misdemeanor for immigration purposes.

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.