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U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: OCT 31 2005

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[EAC 02 036 54781]

IN RE:

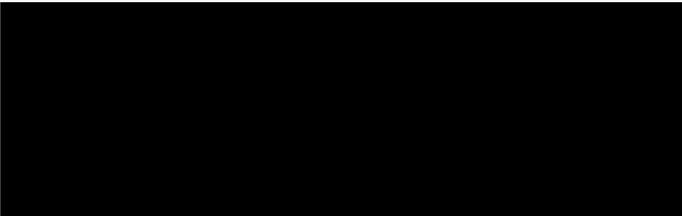
Applicant:



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 (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded.

The applicant is stated 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 director denied the application on July 28, 2003; however, the director's decision does not clearly indicate the specific basis for the denial.

When an officer denies an application, "the officer shall explain in writing the specific reasons for denial." 8 C.F.R. § 103.3.

Therefore, the case will be remanded for the issuance of a new decision that sets forth the specific reasons for the denial.

It is noted that the record indicates that the applicant was arrested on March 7, 1998 by the Washington INS Biometrics Division and charged with three counts of "personation or Perjury to obtain INA doc" and "Entry US illegal-charged as a felony." It is also noted that the applicant was deported from the United States on March 8, 1998. The applicant was advised that in accordance with the provisions of 212(a)(9) of the Act, she was prohibited from entering, attempting to enter, or being in the United States for a period of five years from the date of her departure from the United States. There is nothing in the record to indicate when the applicant actually returned to the United States. The applicant, therefore, appears to be inadmissible to the United States, pursuant to section 212(a)(9) of the Act, as an alien previously removed and had reentered the United States without the consent of the Secretary of the Department of Homeland Security.

As always in these proceedings, the burden of proof remains solely on 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.