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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

MI



FILE:



Office: VERMONT SERVICE CENTER

Date: SEP 26 2005

[EAC 02 254 50435]

IN RE:

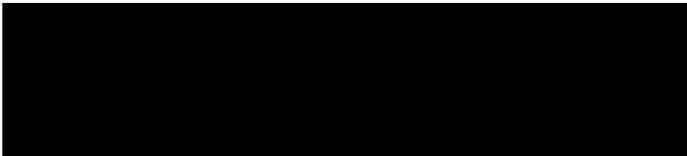
Applicant:



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, and is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the matter will be remanded to the director for further consideration and action.

The applicant is stated to be a citizen of El Salvador who is seeking TPS under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director's decision, dated July 24, 2003, denying the TPS application states, in pertinent part, the following:

On March 9, 2001, the Attorney General designated El Salvador (66 FR 14214) for Temporary Protected Status (TPS). Pursuant to that designation, you filed an Application for Temporary Protected Status (Form I-821) under Section 244 of the Immigration and Nationality Act. That application was denied on April 23, 2003.

On July 31, 2002, you filed for TPS re-registration by submitting an Application for Temporary Protected Status (Form I-821) and an Application for Employment Authorization (Form I-765), as required. In order for this re-registration to be approved, your previously filed Application for Temporary Protected Status (Form I-821) must have been approved. Since your previous Application for Temporary Protected Status (Form I-821) was denied, the present Application for Temporary Protected Status (Form I-821) cannot be approved and is hereby denied.

The director's decision was made in error. The TPS application filed by the applicant on July 31, 2002, was the applicant's initial application for TPS. The record contains no denial of a TPS application, dated April 23, 2003. The record does contain the Service's notice to the applicant of its intent to deny her TPS application. The notice of intent to deny is dated April 23, 2003.

The evidence contained in the record of proceeding does not support the director's decision of denial in this case. Therefore, the director's decision will be withdrawn and the case will be remanded. The director shall review all records pertaining to this applicant and issue a new decision. The director may request any evidence deemed necessary to assist him with the determination of the applicant's eligibility for TPS.

It is noted that on June 28, 2002, by the order of the immigration judge, the applicant was ordered removed from the United States to El Salvador.

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 decision of the director is withdrawn. The case is remanded to the director for further action consistent with the above and entry of a new decision.