



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

Office: Vermont Service Center

Date: **APR 06 2006**

[EAC 04 140 53279]

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:

[REDACTED]

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.

The applicant claims to be a native and citizen of Honduras 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 reveals that the applicant filed his initial application on April 5, 2004. On August 13, 2004, the applicant was requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant responded to the director's request and submitted some evidence in an attempt to establish his eligibility for TPS.

8 C.F.R. § 244.10 provides that;

(c) Denial by director. The decision of the director to deny Temporary Protected Status, a waiver of grounds of inadmissibility, or temporary treatment benefits shall be in writing served in person or by mail to the alien's most recent address provided to the Service and shall state the reason(s) for the denial...

Additionally, 8 C.F.R. § 103.3 provides;

(a) Denials and appeals--

(1) General--

(i) Denial of application or petition. When a Service officer denies an application or petition filed under Sec. 103.2 of this part, the officer shall explain in writing the specific reasons for denial...

While the CIS's computer systems indicate that the TPS application was denied, the record of proceedings does not contain a written denial from the director. Under 8 C.F.R. § 103.3, "the officer shall explain in writing the specific reasons for denial."

It is also noted that the applicant was apprehended by the United States Border Patrol on December 20, 2003, at or near Hebronville, Texas. At the time of his apprehension, the applicant stated that he had traveled from Honduras through Mexico en route to the United States. Therefore, the applicant could not have met the qualifying continuous residence and continuous physical presence requirements.

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 decision.