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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

MI

FILE:

[WAC 05 210 76700]

Office: CALIFORNIA SERVICE CENTER

Date: DEC 04 2006

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The case will be remanded.

The applicant claims to be a 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 applicant filed an application for TPS under receipt number WAC 05 210 76699. The director denied the application on March 24, 2006, after determining that the applicant had been convicted of a felony in the United States. However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the individual convicted of the felony was not the applicant, although he has the same name and birth date. CIS records include photos of the applicant and the convicted felon; and they do not appear to be the same person. In addition, the applicant on appeal submitted a document from the State of California Department of Justice, Bureau of Criminal Identification and Information. In that document, [REDACTED] Assistant Manager, Record Support Section, stated that the applicant's fingerprints did not identify with any criminal history recorded by the Bureau.

The director's denial of the application will be withdrawn; the application will be remanded for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Salvadorans.

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**ORDER:** The application is reopened, the director's decision is withdrawn, and the application is remanded for further action consistent with the above and entry of a decision.