



U.S. Citizenship
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FILE: [REDACTED]
[EAC 03 253 50785]

Office: VERMONT SERVICE CENTER

Date: **JUN 05 2006**

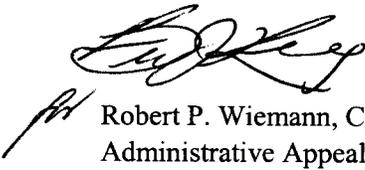
IN RE: Applicant: [REDACTED]

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, Chief
Administrative Appeals Office

DISCUSSION: The applicant's temporary protected status was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be remanded.

The applicant is 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 record reveals that the applicant filed her application on September 8, 2003. On October 2, 2003, the applicant was provided the opportunity to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The record does not contain a response from the applicant. On January 12, 2004, the director denied the TPS application stating the applicant was not eligible for re-registration because her initial TPS application had been denied on October 2, 2003.

However, the applicant's initial application was not denied on October 2, 2003; the director actually issued a Notice of Intent to Deny on that date, not a decision. While the application was submitted subsequent to the initial registration period, the basis for the director's decision was incorrectly stated. Because the basis of the director's decision was incorrect, the applicant could not have provided a coherent response on appeal. Under 8 C.F.R. § 103.3, "the officer shall explain in writing the specific reasons for denial."

The case is remanded for the issuance of a new decision that sets forth the correct and 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 new decision.