



U.S. Citizenship
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Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: MAY 12 2006

[EAC 04 145 52767]

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: 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, 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 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 record reveals that the applicant filed an initial application for TPS during the initial registration period. On June 2, 2003, the director requested the applicant to submit the final court dispositions regarding his criminal history in order to determine his eligibility for TPS. The director determined that the record did not contain a response from the applicant, and therefore, the director denied the application on July 30, 2003.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, for TPS re-registration on April 7, 2004. The director denied this second application on February 17, 2005, because the applicant's initial application was denied. The director noted in his decision that in order for the re-registration to be approved, a previously filed application must have been approved.

The applicant filed an appeal and that appeal is now before the AAO.

It is noted that the applicant has had a pending asylum application since November 21, 1989. Therefore, the applicant may be eligible for late registration.

However, a review of the record of proceedings reveals that the Federal Bureau of Investigation (FBI) report reflects that the applicant was arrested on May 5, 2002, by the Washington Police Department and charged with "Felony Threats" and "Poss of Prohibited Weapon."

The record does not contain the final court dispositions for this arrest as detailed above; therefore, the case is remanded so that the director may request the necessary documentation and issue a new decision based on the findings.

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.