



U.S. Citizenship
and Immigration
Services

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FILE:

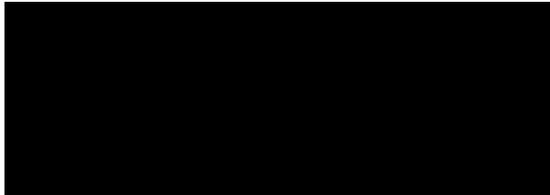
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[EAC 01 190 55007]

OFFICE: VERMONT SERVICE CENTER

DATE: OCT 30 2006

IN RE:

Applicant:

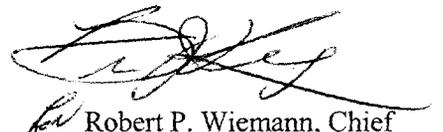


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: 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 Director, Vermont Service Center, withdrew the applicant's Temporary Protected Status. The matter is now before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the case will be remanded for further consideration and action.

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 director withdrew the applicant's Temporary Protected Status (TPS) because she found the applicant ineligible for TPS based on a felony conviction.

However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the applicant was charged with aggravated assault, terrorist threats, unlawful possession of a weapon, and possession of a weapon for an unlawful purpose; however, on November 2, 2001, the applicant was convicted of harassment, in violation of NJS § 2C:33-4B, which is a petty disorderly persons offense, not a felony offense. On that same day, the other charges were dismissed.

The record of proceedings contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any grounds that would bar the applicant from receiving TPS. Therefore, the director's decision withdrawing the applicant's TPS will be withdrawn and the application will be remanded for a new decision. 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 initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision.