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U.S. Citizenship
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Services

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[REDACTED]

FILE:

[REDACTED]

OFFICE: Vermont Service Center

DATE: NOV 03 2008

[EAC 08 018 79209]

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, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status application was denied by the Director, Vermont Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded to the director for further action.

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 electronic record indicates that the applicant filed his initial TPS application on March 7, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 221 91641. The decision regarding that application, however, was not contained in the record. The record also indicates that the applicant filed a subsequent TPS application on September 24, 2006, under CIS receipt number EAC 07 011 76723. Again, the decision regarding the application was not contained in the record. On September 18, 2007, the applicant filed the current TPS application under CIS receipt number EAC 08 018 79209. The record indicated that the Director, Vermont Service Center, denied that application on February 21, 2008, and the denial notice was sent to the applicant on that same date. The applicant has now submitted an appeal from the director's decision.

On appeal, counsel states that neither the applicant nor his representative has received a formal denial letter from the Service; therefore, the applicant is unable to formulate a response until he receives a formal written denial, detailing the reasons behind his denial.

The record of proceeding, however, does not contain the director's notice denying the applicant's TPS application (EAC 08 018 79209). Therefore, the case is remanded for the inclusion of the director's decision and any other necessary documentation into the record of proceeding. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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 further action consistent with the above.