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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: OCT 03 2008
[EAC 07 078 50685, motion]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Employment Authorization under 8 C.F.R. § 274a.12(c)(19)

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (VSC), denied the application. The application is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action.

The applicant is a native and citizen of El Salvador who was granted Employment Authorization under 8 C.F.R. § 274a.12(c)(19) as an alien with a pending application for Temporary Protected Status (TPS). On August 16, 2005, the director subsequently denied the underlying TPS application.

On December 1, 2006, the director denied the current application for Employment Authorization because the underlying TPS application had been denied. In response to the director's decision, the applicant filed a Form I-290B, Notice of Appeal or Motion.

The AAO has no jurisdiction over applications for Employment Authorization. The director erroneously accepted the applicant's response as an appeal instead of a motion to reopen and forwarded the file to the AAO. Therefore, the case will be remanded and the director shall consider the applicant's response as a motion to reopen.

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 and entry of a decision.