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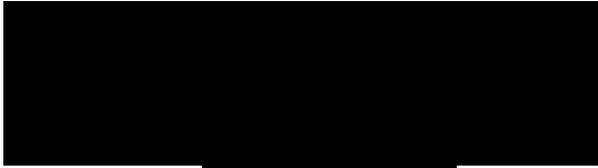
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FILE:



Office: VERMONT SERVICE CENTER

Date: OCT 31 2008

[EAC 08 195 50462, appeal]  
[EAC 07 272 74397]

IN RE:

Applicant:



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 Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (VSC), denied the application which was forwarded to the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action.

The applicant is a native and citizen of Nicaragua 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 September 25, 2003, the Director, Texas Service Center, denied the underlying TPS application. .

On August 30, 2007, the VSC Director denied the current Form I-765, Application for Employment Authorization, because the underlying TPS application had been denied. On December 7, 2007 and on June 6, 2008, the VSC Director dismissed motions to reopen the August 30, 2007 determination. In response to the director's latest decision, the applicant filed a motion to reopen.

There is no appeal to a denial of an application for employment authorization. The director erroneously considered the applicant's response to be an appeal 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.