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U.S. Department of Homeland Security  
20 Mass Ave., N.W., Rm. A3042  
Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**

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FILE:



[EAC 02 171 51779]

Office: VERMONT SERVICE CENTER

Date:

FEB 24 2005

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*

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 a native and citizen of El Salvador who is seeking Temporary Protected Status (TPS) under 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1254.

The director denied the application on September 25, 2003. The director determined that the applicant failed to respond to a request for evidence to establish that she and [REDACTED] are one and the same person. The director, therefore, denied the application.

On appeal, the applicant asserts that the name of [REDACTED] was only used by friends and family.

It is noted that on October 21, 2002, the applicant was provided the opportunity to submit evidence establishing continuous physical presence in the United States from March 9, 2001, to the filing of the application. In response, the applicant submitted a statement from [REDACTED] a copy of two Giant Express, Inc. receipts, in the name of [REDACTED] which appear to be dated September 8, 2001 and December 26, 2000, and a copy of a Verizon account statement bearing no name, dated May 22, 2002.

[REDACTED] claims that he has known the applicant since December 29, 2000 and that the applicant has resided in the United States since December 16, 2000. [REDACTED] statement regarding the applicant's claimed presence in the United States before December 16, 2000 is not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence. On September 25, 2003, the director denied the application.

The director stated:

On July 29, 2003, you were notified of this Bureau's intent to deny the Application for Temporary Protected Status (Form I-821) you filed on April 22, 2002.

The basis of the intent was that we asked for documentary evidence or an explanation showing that [REDACTED] are the same person. You submitted documents under the first name [REDACTED]

You were granted an opportunity in which to submit any evidence you thought would overcome the grounds of denial. The record does not include a response to this Service's notice. Therefore, the grounds for denial have not been overcome.

When an officer denies an application, "the officer shall explain in writing the specific reasons for denial." 8 C.F.R. § 103.3.

However, the director's decision does not clearly indicate the specific basis for the decision. Therefore, the director's decision will be withdrawn and the case will be remanded for the issuance of a new decision that sets forth the specific reasons for the denial. As always in these proceedings, the burden of proof remains solely on the applicant. Section 291 of the Act, 8 U.S.C. § 1361.



**ORDER:** The director's decision is withdrawn. The case is remanded to the director for entry of a new decision.