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U.S. Citizenship
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Services

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FILE:



Office: Vermont Service Center

Date: NOV 28 2005

[EAC 03 076 52786]

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 section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that the applicant filed his application on November 5, 2002. On February 6, 2003, the applicant was requested to submit evidence establishing his eligibility for late TPS registration. The record does not contain a response from the applicant; therefore, the director denied the application on July 21, 2003.

However, while the director's decision states: "your application is denied", the specific reason for the decision is not indicated. Under 8 C.F.R. § 103.3, "the officer shall explain in writing the specific reasons for denial."

It is noted that the applicant was ordered removed in absentia on December 18, 2001, at Harlingen, Texas, based upon his apprehension near Eagle Pass, Texas, on June 9, 2001. Thus, although not addressed by the director in his decision, the applicant could not have met the requirements that he had continuously resided in the United States, or has been continuously physically present in the United States during the requisite time periods for El Salvador TPS. The director must also address these grounds in any future decisions or proceedings as well.

The case is 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 rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

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