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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
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U.S. Citizenship  
and Immigration  
Services

MI



FILE: [REDACTED]  
[EAC 02 260 51692]

Office: Vermont Service Center

Date: OCT 31 2008

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:



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 August 8, 2002. On November 4, 2003, the applicant was requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The record does not contain a response from the applicant; therefore, the director denied the application on January 20, 2004.

Under 8 C.F.R. § 103.3, "the officer shall explain in writing the specific reasons for denial." The director stated in the denial that the applicant had failed to respond to a request for evidence, and that the grounds for denial had not been overcome. However, while the director's decision states: "your application is denied", the specific reason for the denial is not indicated.

It is noted that the affidavits in the record of proceedings are contradictory as to relevant dates necessary to establish the applicant's continuous residence and continuous physical presence in the United States. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

Therefore, 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.