



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: AUG 01 2008

[EAC 08 115 50872, motion]

[EAC 08 050 93977]

IN RE:

Applicant:

[REDACTED]

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

ON BEHALF OF APPLICANT:

[REDACTED]

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 "Robert P. 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 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 9, 2004, the Director, California Service Center (CSC), denied the underlying TPS application. An application for re-registration was denied by the CSC Director on July 15, 2005. An appeal to that decision was dismissed by the Chief, AAO, on July 20, 2006.

On February 13, 2008, the VSC Director denied the current Form I-765, Application for Employment Authorization, because the underlying TPS application had been denied. In response to the director's 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.