



U.S. Citizenship
and Immigration
Services

10A-1

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

AUG 04 2004

IN RE:

Applicant:

[REDACTED]

APPLICATION:

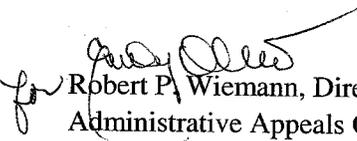
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

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.


for Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

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 director denied the application after determining that the applicant had abandoned his application by failing to respond to a request for evidence.

If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen. 8 C.F.R. § 103.2(b)(15).

The record reflects that the applicant filed the TPS application on April 12, 2001. On February 28, 2003, the applicant was requested to furnish evidence of his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001 to the date of filing of the application. In addition, the applicant was requested to provide police clearances and court dispositions from every city he had lived in since arriving in the United States, and certified copies of the final court dispositions of any arrest in the United States. In response, the applicant provided a Court disposition, issued by the Municipal Court of Citrus Judicial District, County of Los Angeles, State of California, for his conviction of "LAO MISD - Drinking Alcoholic Bevg Public;" however, the applicant failed to submit evidence pertaining to his arrest for "Disorderly Conduct, UI/DRUG" in Norwalk, California, on August 26, 1999, and "Rape by Force/Fear/Etc," in Norwalk, California, on June 20, 2001. The director determined that, without the requested information, the applicant's eligibility could not be determined. On November 6, 2003, the director denied the application due to abandonment.

The director erroneously advised the applicant that he could file an appeal from this decision within 30 days. As the director's decision was based on abandonment, the AAO has no jurisdiction over this case. The director's error does not, and can not, supersede the regulations. Therefore, the appeal must be rejected.

However, in the director's discretion, he may reopen the decision on a Service motion pursuant to 8 C.F.R. § 103.5(a)(5), or excuse the late filing of a new motion under the requirements of 8 C.F.R. § 103.5(a)(1)(i).

ORDER: The appeal is rejected.