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U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

[Redacted]

FILE:

[Redacted]

Office: VERMONT SERVICE CENTER

Date:

400 1 9 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:

[Redacted]

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 appeal will be rejected.

The applicant is a native and citizen of Honduras 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 appear for fingerprinting. The director, therefore, denied the application.

The applicant appears to be represented; however, the individual listed, as a representative on appeal is not authorized under 8 C.F.R. §§ 292.1 or 292.2 to represent the applicant. The record contains a previously submitted Form G-28, Notice of Appearance as Attorney or Representative; therefore, counsel shall receive notification.

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 reveals that the applicant filed his application on April 2, 1999. On July 31, 2000, the applicant was informed that notices issued by Citizenship and Immigration Services (CIS), requesting that the applicant submit evidence or obtain fingerprints in support of the TPS application, were returned by the U.S. Postal Service as undeliverable. The director, therefore, denied the application after determining that the applicant abandoned his application based on his failure to provide a current valid address. On May 3, 2002, the applicant filed a Motion to Reopen with the director. The applicant was again requested to appear for fingerprinting on August 9, 2002. The applicant failed to appear as requested; therefore, the director concluded that the applicant had abandoned his application and issued a Notice of Denial on May 29, 2003. The director advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen within 30 days.

The applicant responded to the Notice of Decision on June 13, 2003. The applicant stated that he did not recall receiving a letter for a fingerprint appointment, and requested that his case be reopened.

The director erroneously accepted the applicant's response as an appeal instead of a motion to reopen and forwarded the file to the AAO. However, as the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Therefore, the case will be rejected.

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 appeal is rejected.