



U.S. Citizenship  
and Immigration  
Services

*Handwritten initials or signature*

[Redacted]

FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: JUN 14 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.

*Cindy M. Gomez for*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas 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 determined that the applicant failed to respond to a request for evidence to establish his eligibility for TPS. The director, therefore, denied the application due to abandonment.

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 August 14, 2002. On January 28, 2003, the applicant was requested to submit additional evidence establishing his qualifying residence in the United States and his identification. The record does not contain a response from the applicant; therefore, the director concluded that the applicant had abandoned his application and issued a Notice of Denial on March 24, 2003.

In compliance with the director's instructions, the applicant submitted a motion to reopen his case. On motion, the applicant states that he had responded to the request for information in a timely manner. The applicant also provides additional documentation. According to the applicant, he received the request for information on or about February 16, 2003, and he mailed his response on or about March 1, 2003. The applicant indicates that he used a company called Crown Print-N-Mail Plus to send his response and that company forwarded the response to the U.S. Postal Service on March 3, 2003.

The director erroneously accepted the motion as an appeal and forwarded the file to AAO.

As the director's decision was based on lack of prosecution, the AAO has no jurisdiction on this case, and it may not be appealed to the AAO. Therefore, the case will be rejected.

It is noted that there is nothing in the record to support the applicant's claim that he provided evidence in response to the request for additional information. Moreover, even if one accepts the applicant's claim as true, his response would still have been filed with CIS more than 30 days after the date of the notice. Additionally, there is nothing in the record to indicate that the applicant provided any proof of his identity.

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.