



U.S. Citizenship  
and Immigration  
Services

M1



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

007 11 14

IN RE:

Applicant:



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.

Robert P. Wiemann, Director  
Administrative Appeals Office

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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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 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 her 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 shows that the applicant filed her Form I-821, Application for Temporary Protected Status, on June 16, 1999. On February 26, 2000, the application was requested to provide a certified court disposition of her arrest for felony possession/purchase of cocaine on June 14, 1996, in Los Angeles, California.

The director denied the application on June 22, 2000, after determining that the applicant had abandoned her application by failing to respond to his request for evidence. The director erroneously advised the applicant that she could file an appeal from this decision within 30 days. The applicant filed an appeal on July 24, 2000. As the director's decision was based on abandonment, the AAO has no jurisdiction over this case. The director's error does not, and cannot, 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).

It is noted that the applicant, on appeal, filed a copy of the court disposition of her arrest. Although she asserts that she provided the requested evidence on May 17, 2000, the record contains no evidence that a response was received at the California Service Center, and the applicant has not provided any evidence to establish that she mailed a response on May 17, 2000, as she indicates on appeal.

**ORDER:** The appeal is rejected.