

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services

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U.S. Department of Homeland Security  
20 Mass. Rm. A3042, 425 1 Street, N.W.  
Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services



FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: 01/11/11

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.

*Robert P. Wiemann*  
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 case will be remanded for further consideration and action.

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 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 reveals that the applicant filed his initial application on April 25, 2003. On May 14, 2003, the applicant was requested to submit additional evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit credible evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. 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 Decision denial on September 26, 2003. The director advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen pursuant to 8 C.F.R. § 103.5.

The applicant responded to the Notice of Decision on December 1, 2003, more than 30 days after the director's decision. The applicant states that he would like for his TPS case to be reopened and reconsidered. He states that he submitted all the evidence that he has and that he has nothing more to send. The applicant does not submit additional evidence in support of his claim.

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 remanded.

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.