



U.S. Citizenship
and Immigration
Services

MI

[Redacted]

FILE:

[Redacted]

Office: CALIFORNIA SERVICE CENTER

Date:

OCT 27 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.

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 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 because the applicant failed to appear to be fingerprinted as required.

On appeal, the applicant submits additional evidence in an attempt to establish his qualifying continuous residence and physical presence in the United States.

Pursuant to 8 C.F.R. § 244.6, every applicant who is 14 years of age or older must be fingerprinted on Form FD-258, Applicant Card.

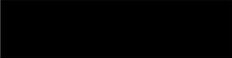
Pursuant to 8 C.F.R. § 103.2(b)(13):

Except as provided in § 335.6 of this chapter, if an individual required to appear for fingerprinting or for an interview does not appear, the Service does not receive his or her request for rescheduling by the date of the fingerprinting appointment or interview, or the applicant or petitioner has not withdrawn the application or petition, the application or petition shall be considered abandoned, and accordingly, shall be denied.

Pursuant to 8 C.F.R. 103.2(b)(15), a denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under 8 C.F.R. § 103.5.

The record indicates that the applicant filed his Form I-821, Application for Temporary Protected Status, on March 14, 2002. On June 19, 2002, Citizenship and Immigration Services (CIS) issued Form I-797C, Fingerprint Notification, instructing the applicant to appear at the CIS office in South El Monte, California, to be fingerprinted on July 30, 2002, at 8:00 A.M. The notice was mailed to the applicant at his address of record, but the applicant failed to appear to be fingerprinted at the scheduled time and place. The record contains no indication that the applicant reported a change of address; he still resided at the same address at the time of filing of the appeal. Further, the record contains no indication that the applicant requested that his fingerprinting appointment be rescheduled. The director, therefore, denied the application on January 12, 2004, because the applicant failed to appear to be fingerprinted as required. The director advised the applicant that he could file a motion to reopen the matter within thirty (30) days of the denial of his application; however, the applicant filed an appeal rather than a motion to reopen. The AAO has no jurisdiction over this case. Therefore, the appeal must be rejected.

It is noted that the applicant filed a prior Form I-817, Application for Family Unity Benefits, that was also denied by the Director, California Service Center, on March 30, 2002, because the applicant failed to appear to be fingerprinted as required.



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An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is rejected.