



U.S. Citizenship
and Immigration
Services

MI

[Redacted]

FILE:

[Redacted]

Office: INDIANAPOLIS

Date:

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.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Indianapolis, Indiana, 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 district director determined that the applicant failed to submit the certified court disposition of her arrest on September 15, 1998 in Columbus, Georgia, for theft by shoplifting. The director noted that neither of the documents she submitted was a court certified judgment and commitment, and neither of the documents relates to her arrest for theft by shoplifting. The director, therefore, denied the application due to abandonment, pursuant to 8 C.F.R. § 103.2(b)(13), on May 29, 2002.

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 reflects that the applicant filed her TPS application on April 23, 2001. The Federal Bureau of Investigation report, contained in the record of proceeding, shows that the applicant was arrested in Columbus, Georgia, on September 15, 1998, for theft by shoplifting. The applicant was, therefore, requested on July 20, 2001, to submit the certified court disposition of this arrest. She was granted until August 20, 2001, to comply with the request. Because she failed to submit the court record as requested, the district director denied the application due to abandonment.

The district director erroneously advised the applicant that he could file an appeal from this decision within 30 days. As the director's decision was based on abandonment, the AAO has no jurisdiction over this case. The director's error does not, and can not, supersede the regulations. Therefore, the appeal must be rejected.

However, in the district 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).

ORDER: The appeal is rejected.