

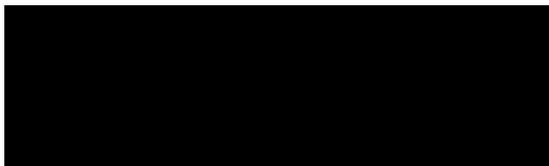
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



M 1

FILE:



OFFICE: VERMONT SERVICE CENTER

Date: JUN 15 2005

[EAC 01 178 52023]

IN RE:

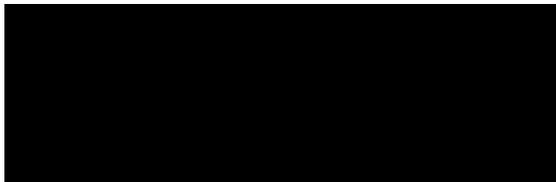
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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

DISCUSSION: The application was denied by the Director, Vermont Service Center. The director subsequently dismissed a motion to reopen the case. The director granted a second motion to reopen the case and thereafter, affirmed the previous decision to deny the TPS application. The case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant claims to be 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.

On August 8, 2002, the director denied the application due to abandonment because the applicant failed to submit any evidence to establish his continuous residence in the United States since February 13, 2001 or continuous physical presence in the United States since March 9, 2001. The director informed the applicant that there is no appeal from a denial due to abandonment, but that he could file a motion to reopen the case within 33 days of the date of issuance of the Notice of Decision.

On October 7, 2002, the applicant filed a motion to reopen the case. The applicant stated that he didn't receive the request for evidence sent by the director because he was working in Baltimore and the employer had him stay at a hotel for the duration of the construction contract.

On March 13, 2003, the director dismissed the motion because it did not meet the requirements of a motion to reopen as set forth in 8 C.F.R. § 103.5(a)(4).

On August 14, 2003, the applicant filed a second motion to reopen the case.

On March 17, 2004, the director granted the motion and affirmed the previous decision denying the TPS application based upon a finding that the applicant had failed to establish that he had continuously resided in the United States since February 13, 2001.

The applicant filed an appeal on March 30, 2004. On appeal, the applicant argues that he has resided and worked in the United States since November of 1999.

There is no appeal from a denial due to abandonment. 8 C.F.R. 103.2(b)(15).

A field office decision made as a result of a motion may be appealed to the AAO only if the original decision was appealable to the AAO. 8 C.F.R. 103.5(a)(6).

In this case, the director denied the original application due to abandonment. Since the original decision was not appealable to the AAO, the AAO has no jurisdiction to consider the current appeal from the director's affirmation of the previous decision denying the TPS application on motion. Therefore, the appeal must be rejected.

ORDER: The appeal is rejected.