

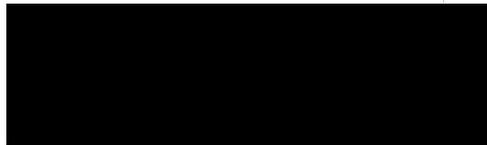
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U.S. Department of Homeland Security  
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**U.S. Citizenship  
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FILE:

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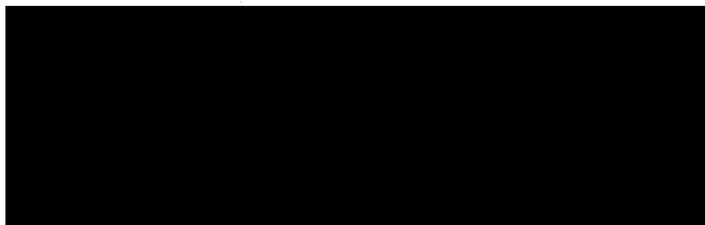
Office: California Service Center

Date:

**MAY 24 2005**

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 for*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California 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 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 after determining that the applicant had abandoned her application by failing to appear for fingerprinting, as required.

If an individual requested 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for rescheduling by the date of the fingerprinting appointment or interview, or the applicant or petitioner has not withdrawn the application or petition, the application or petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13).

The record reveals that the applicant filed her application on May 2, 2001. On November 24, 2003, the applicant was requested to remit the \$50.00 fee required for fingerprinting, or proof of payment and fingerprinting, within 84 days to the California Service Center. The record does not contain a response from the applicant; therefore, the director concluded that the applicant had abandoned her application and denied the application on April 21, 2004. The director advised the applicant that she could file a Notice of Appeal to the Administrative Appeals Office.

The applicant responded to the director's decision on May 5, 2004, asserting that she did in fact submit the required fingerprinting fee, and that she was never notified by the Service that her presence was required in connection with any fingerprinting appointment. The applicant also requested that, under the circumstances, her case be reconsidered and reopened.

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 and the director shall consider the applicant's response as a motion to reopen.

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.