

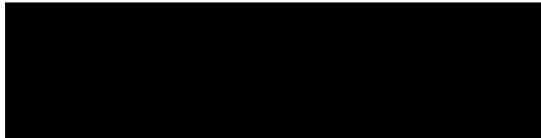


U.S. Citizenship
and Immigration
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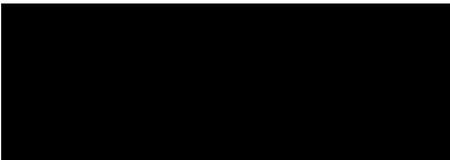


FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **JAN 05 2006**
[EAC 02 266 51100]

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:



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, reopened, and again denied by the Director, Vermont 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 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 June 20, 2003, the director denied the application due to abandonment because the applicant failed to appear for fingerprinting required in connection with her application. The director informed the applicant that there is no appeal from a denial due to abandonment, but that she could file a motion to reopen the case within 33 days of the date of issuance of the decision.

On July 24, 2003, the applicant filed a motion to reopen her case.

On March 31, 2004, the director reopened the proceedings and requested the applicant to submit evidence of her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On September 22, 2004, the director again denied the application.

The applicant filed the instant appeal on October 25, 2004.

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 dismissal of a subsequent motion to reopen. Therefore, the appeal must be rejected.

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 consideration and action consistent with the above.