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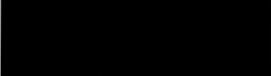
**U.S. Citizenship
and Immigration
Services**

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FILE:



[SRC 02 035 56314]

Office: Vermont Service Center

Date: JUN 27 2006

IN RE:



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.

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied, reopened, and denied again by the Vermont Service Center. The case is now before the Administrative Appeals Office (AAO) on appeal and will be remanded for further consideration and action.

The applicant claims to be 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 April 8, 2004, the director denied the application after determining that the applicant failed to appear for her scheduled fingerprint appointment. 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 Notice of Decision.

On May 24, 2004, the applicant filed a motion to reopen the case. The director denied the application again on February 2, 2005, because the applicant failed to establish her continuous residence and continuous physical presence in the United States during the requisite time periods. The director noted in his decision to deny that the records revealed that the applicant did not arrive the United States until May 6, 2001.

The applicant filed an appeal on February 14, 2005. On appeal, the applicant states that she has lived in the United States since January 5, 2001, and that she attempted to return to El Salvador on April 30, 2001. She also states that she was arrested by immigration officers on May 5, 2001. The applicant did not submit any additional evidence along with her appeal in support of her claim of eligibility.

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).

The director accepted the applicant's response to the director's latest decision as an appeal and forwarded the file to the AAO. However, 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 denial. Therefore, the case will be remanded and the director shall consider the applicant's response as a Motion to Reopen.

It is noted that the applicant was apprehended by the United States Border Patrol on May 6, 2001, near Hidalgo, Texas, while attempting to enter the United States illegally. The record also reveals that the applicant stated that she departed El Salvador on April 10, 2001, traveled through Guatemala, and arrived in Reynosa, Mexico on May 5, 2001. It is also noted that the applicant stated at the time of her apprehension that she was en route to the United States to seek employment and live with her parents.

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.