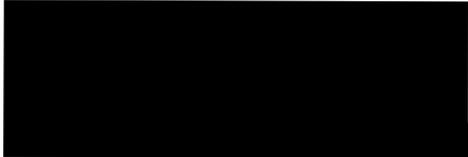


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FILE: [REDACTED]  
[EAC 02 239 50150]

Office: Vermont Service Center

Date: JUN 27 2006

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: 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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied, reopened, and denied again by the Director, 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 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.

On June 11, 2004, the director denied the application after determining that the applicant had abandoned her application by failing 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 he could file a motion to reopen the case within 33 days of the date of issuance of the Notice of Decision.

On July 2, 2004, the applicant filed a motion to reopen the case. The applicant stated that she never received a notice for fingerprinting because she had moved to a new address.

On September 28, 2004, the applicant was requested to submit evidence establishing her continuous residence in the United States "as of February 13, 2001," and her continuous physical presence in the United States from March 9, 2001, to the date of filing her application. The director determined that the record did not contain a response from the application; therefore, the director denied the application on November 24, 2004, because the grounds for denial had not been overcome.

The applicant filed an appeal on December 2, 2004. On appeal, the applicant states that she entered the United States on July 5, 2000. She also states that she was able to obtain employment "on the side" to maintain herself and pay rent. The applicant also submits a single affidavit along with her appeal. It is worth noting that the record contains a copy of the applicant's passport issued to her in El Salvador on June 7, 2001.

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.

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.