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

MM

Date **NOV 02 2006**

FILE: [REDACTED] Office: Nebraska Service Center
[EAC 03 269 50807]

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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied, reopened, and denied again by the Director, Nebraska 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 March 15, 2004, the director denied the application after determining that the applicant did not submit the proper fingerprint fee. 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 March 24, 2004, the applicant filed a motion to reopen the case. The applicant stated that he never received a notice requesting payment for the fingerprint fee.

On July 20, 2004, the applicant was requested to submit evidence establishing her eligibility for TPS late registration, as well as her "residence in the United States since February 13, 2001," and her continuous physical presence in the United States from March 9, 2001. The director determined that the record did not contain a response from the applicant; therefore, the director denied the application on October 29, 2004.

The applicant filed an appeal on November 22, 2004. On appeal, the applicant states that she needs to work to support her family in the United States. The applicant also submits some 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.

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.