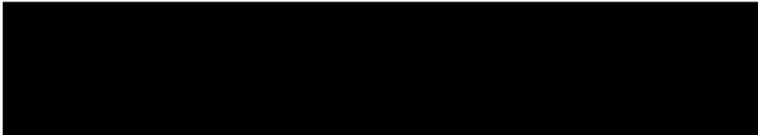




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy**



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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **APR 20 2007**
[WAC 05 198 74839]

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.

Cindy M. Gomez for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further 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 record reveals that the applicant filed a TPS application during the initial registration period under receipt number WAC 02 265 52223. That application was approved on February 4, 2003.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 16, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application based on abandonment on September 6, 2005, because the applicant had failed to appear for fingerprinting on May 25, 2005. Within the same denial decision, the director issued a notice of intent to withdraw TPS because the applicant's failure to appear for fingerprinting rendered his re-registration application incomplete and abandoned.

The applicant responded to the director's notice of denial on September 21, 2005. He asserts that he never received the appointment letter for fingerprinting. He submits a copy of Form I-797C, Notice of Action, dated April 20, 2005, advising the applicant that, "USCIS WILL SCHEDULE YOUR BIOMETRICS APPOINTMENT. You will be receiving an appointment notice with a specific time, date and place where you will have your fingerprints and/or photos taken." There is no evidence in the record, however, that the applicant was subsequently issued an appointment notice as specified on the Form I-797C.

The director accepted the applicant's response as an appeal 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. Furthermore, if the applicant is also basing her appeal on the Notice of Intent to Withdraw, AAO also has no jurisdiction over this case because the applicant's TPS status has not yet been withdrawn, and there is no appeal for "Notice[s] of Intent."

Accordingly, 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 and entry of a decision.