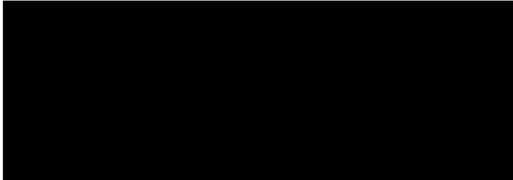




U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy



*MI*

FILE: [REDACTED]  
[SRC 02 210 55036]

Office: Texas Service Center

Date: JUL 03 2007

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, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied, reopened, and denied again by the Director, Texas 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 native and citizen of Honduras who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen. 8 C.F.R. § 103.2(b)(15).

On November 11, 2002, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States. In addition, the applicant was requested to submit proof of his nationality, and a copy of picture identification. The director determined that the record did not contain a response from the applicant; and therefore, the director denied the application on December 24, 2003, due to abandonment.

On January 9, 2004, the applicant filed a motion to reopen the director's decision to deny the application. The director again on March 30, 2004, requested the applicant to provide additional evidence in order to establish his eligibility for TPS late registration, his continuous residence and continuous physical presence, and to provide proof of his nationality, and a copy of picture identification. The director determined that the evidence submitted in response to her request was not sufficient to establish the applicant's eligibility for TPS late registration, and therefore, the director denied the application again on June 15, 2004.

The applicant filed an appeal which is now before the AAO. The applicant submits additional evidence on appeal in an attempt to establish his 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.

The director erroneously accepted the applicant's response as an appeal instead of a motion to reopen and forwarded the file to the AAO. As the director's initial decision was based on abandonment, the AAO has no jurisdiction over this case. 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 and entry of a decision.