

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



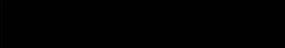
U.S. Citizenship
and Immigration
Services

M,

PUBLIC COPY



FILE:



OFFICE: Vermont Service Center

Date: MAR 19 2008

[EAC 06 342 73084]

INRE:

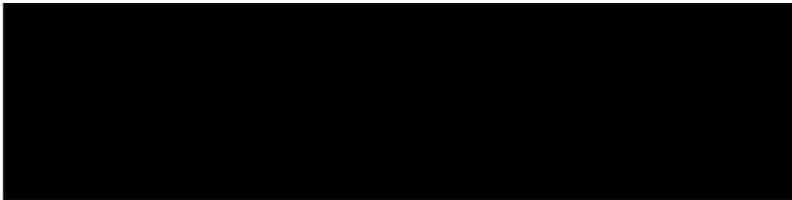
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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 by the Director, Vermont 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 claims to be a 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 previously filed a Form 1-821, Application for Temporary Protected Status, under CIS receipt number SRC 01 22960385, on June 20, 2001. The Director, Texas Service Center, denied the application on October 12, 2004, after determining that the applicant had abandoned his application by failing to respond to a request for evidence and failing to appear for a fingerprint appointment.

On February 10, 2005, the applicant filed another Form 1-821 under CIS receipt number WAC 05 161 70957 and indicated that he was re-registering for TPS. The Director, California Service Center, denied that application on November 4, 2005 because the applicant's initial TPS application had been denied and the applicant was not eligible for re-registration for TPS. The record does not reflect that the applicant appealed the director's decision.

The applicant filed his current application on September 7, 2006, under CIS receipt number EAC 06 342 73084. The Director, Vermont Service Center, denied the application for abandonment on December 29, 2006 because the applicant had failed to provide any additional information in the current filing to overcome the original ground of denial. The director advised the applicant that a denial of an application due to abandonment may not be appealed, nevertheless, the applicant submitted a Form 1-290B, Notice of Appeal.

The director erroneously accepted the applicant's response as an appeal instead of a motion to reopen 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. 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.