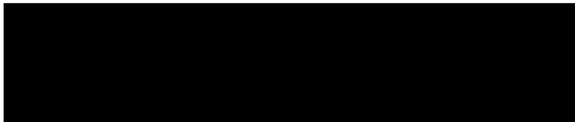




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy



M1

FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: AUG 13 2007

[consolidated herein]

[WAC 01 244 61267]

IN RE:

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:

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 by the Director, California Service Center (CSC). A subsequent motion to reopen was dismissed by the CSC director. The matter is now before the Administrative Appeals Office (AAO) on another motion to reopen. 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.

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).

In a motion to reopen or reconsider, the official having jurisdiction is the official who made the latest decision in the proceeding. 8 C.F.R. § 103.5(a)(1)(ii).

The director denied the application based on abandonment on March 31, 2004, because the applicant had failed to respond to a request to submit police clearances from every city where he had lived since arriving in the United States, and the final court disposition of any arrests. On September 21, 2004, the director dismissed the applicant's motion to reopen, filed on May 28, 2004, because the motion was untimely filed.

On December 14, 2004, the applicant filed another motion to reopen. The director accepted the motion and forwarded the file to the AAO. However, as the initial decision by the director was based on abandonment and the director had made the latest decision in this proceeding, the AAO has no jurisdiction over the case. Therefore, the case will be remanded to the director.

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.