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[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: AUG 23 2005  
[WAC 01 204 55223]

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*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) 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 director denied the application after determining that the applicant had abandoned his application by failing to respond to his request to submit the final court dispositions of his arrests.

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).

The record of proceeding contains the Federal Bureau of Investigation fingerprint results report indicating that the applicant was arrested:

- (1) On May 11, 1984, in San Bernardino, California, for "THEFT BAMC" (name used: [REDACTED])
- (2) On July 2, 1987, in Los Angeles, California, for grand theft auto.
- (3) On March 10, 1994, in Los Angeles, California, for possession of narcotic controlled substance (name used [REDACTED])

On December 4, 2003, the applicant was requested to provide police clearances from every city where he had lived since arriving in the United States, and to also provide a copy of the certified final court dispositions of all arrests in the United States. Because the applicant failed to respond to the request, the director denied the application due to lack of prosecution on February 2, 2004.

The applicant responded to the director's decision on March 3, 2004. He submits the following concerning the offenses:

- (4) Convicted on July 7, 1987, in Los Angeles, California, for Count 1, taking a vehicle without owner's consent, 10851(a) VC, a misdemeanor; and Count 2, driving under the influence of alcohol/drug, 23152(a) VC, a misdemeanor (arrest date July 2, 1987; name used: [REDACTED]) These convictions appear to relate to No. 2 above.
- (5) Arrested on March 10, 1994, in Los Angeles, California, for possession of narcotic controlled substance, 11350(a) H&S, a felony (name used: [REDACTED]) The record shows that a bench warrant was issued for the applicant's arrest on April 11, 1994; however, the final disposition of this arrest is not contained in the record. This offense appears to relate to No. 3 above.
- (6) Convicted on May 13, 2003, in Los Angeles, California, for "sell crib sheet answers 4 exam," 14610.5a1 VC, a misdemeanor (arrest date March 25, 2003).

The director erroneously advised the applicant that he could file an appeal from this decision within 30 days. 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.

It also is noted that the applicant was apprehended at or near El Paso, Texas, on or about June 29, 1983, by the U.S. Border Patrol, and placed into removal proceedings. On December 11, 1993, a Warrant of Deportation [Removal] was issued at Los Angeles, California; that warrant appears to remain outstanding.

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.