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**U.S. Citizenship  
and Immigration  
Services**

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FILE: [REDACTED]  
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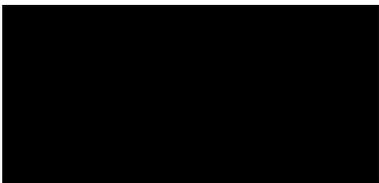
Office: TEXAS SERVICE CENTER

Date: SEP 30 2005

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:



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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded for further consideration and 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 complete the process for providing a set of current fingerprints in support of his application.

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 reveals that the applicant filed his application on May 3, 2001. On March 12, 2003, Form I-797C, Fingerprint Notification, was issued requiring the applicant to appear at an office of the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS) in Houston, Texas for fingerprinting. The record shows that on that day the applicant appeared for his appointment but was instructed to return to complete the process when a cut "on his finger(s) has completely healed." He was further instructed that he could return to that office for completion of the process on any day from Tuesday through Saturday before 8 a.m. The record contains no evidence that the applicant ever completed the process. Therefore, the director concluded that the applicant had abandoned his application and issued a Notice of Denial on February 27, 2004. The director advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen within 30 days.

The applicant responded to the Notice of Decision on May 4, 2004. The applicant stated that he has never appeared for fingerprinting because as an electrician, he always suffers from cuts on his fingers. The director accepted the applicant's response as a motion to reopen and again denied the application on May 18, 2004 on the basis of abandonment. The applicant responded to this Notice of Decision on June 14, 2004. However, as the director's decisions were based on abandonment, the AAO does not have jurisdiction in this matter. Therefore, the matter will be remanded and the director shall consider the applicant's response as yet another 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 matter is remanded for further action consistent with the above and entry of a new decision.