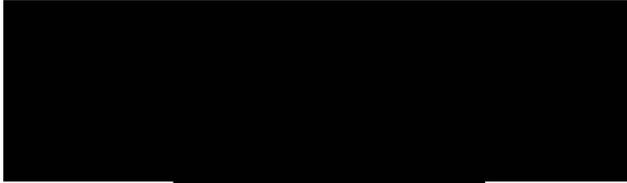


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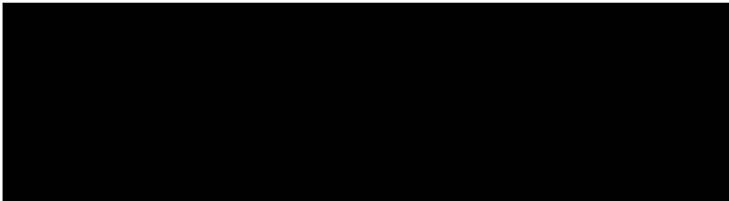
Office: VERMONT SERVICE CENTER

Date: JUN 20 2006

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.

*Cecily N. Gomez*  
Robert P. Wiemann, Chief  
Administrative Appeals Office *for*

**DISCUSSION:** The application was denied, reopened, and denied again 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 is 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.

On June 11, 2003, and again on August 11, 2003, the director denied the application due to abandonment because the applicant failed to respond to a Notice of Intent to Deny requesting evidence in support of his application. The director informed the applicant that there is no appeal from a denial due to abandonment, but that he could file a motion to reopen the case within 33 days of the date of issuance of the decision.

On September 4, 2003, the applicant filed a motion to reopen the case.

On March 26, 2004, the director dismissed the motion and reaffirmed his decision to deny the application.

The applicant filed the current appeal on April 27, 2004.

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).

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 dismissal of a subsequent motion to reopen.

It is noted that although the applicant submitted an application for re-registration on September 9, 2002, indicating an address in Jersey City, New Jersey, that the Notice of Intent to Deny was sent on February 20, 2003, to the applicant's previous address in Houston, Texas.

In view of the foregoing, the previous decision of the director will be withdrawn. The petition will be remanded to the director for further consideration. The director may request any additional evidence he considers pertinent. Similarly, the applicant may provide additional evidence within a reasonable period of time to be determined by the director. Upon receipt of all of the evidence, the director will review the entire record and enter a new decision.

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 consideration and action consistent with the above.