



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER  
[SRC 02 110 54978]  
[appeal (motion) – SRC 04 119 50948]

Date: OCT 11 2007

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 California Service Center. Any further inquiry must be made to that office.

*Robert P. Wiemann*  
Robert P. Wiemann, Chief  
Administrative Appeals Office *for*

**DISCUSSION:** The application was denied by the Director, Texas Service Center (TSC), and is now before the Administrative Appeals Office (AAO), on appeal. The case will be remanded to the California Service Center (CSC).

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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 02 110 54978 during the initial registration period. The director denied the initial application on August 12, 2003, because the applicant had abandoned his application by failing to respond to a request for evidence dated April 29, 2003, requesting that he provide a legible copy of photo identification such as a driver's license or any national identity document bearing his photograph or fingerprint such as his passport or national identification card.

The record reflects that the director sent the request for evidence dated April 29, 2003, and the denial notice dated August 12, 2003, using an incomplete address. Namely, the director did not list the applicant's apartment number (# 208) in the address, causing the notice and the decision to fail to reach the applicant.

The record now contains a copy of the applicant's El Salvadoran passport.

The applicant filed a late appeal on March 19, 2004. On appeal, the applicant attempts to take responsibility for not receiving a decision in his case by apologizing for not having forwarded his new address in a prompt manner.

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).

The CSC director accepted the applicant's response to the CSC director's latest decision as an appeal and forwarded the file to the AAO. However, in this case, the TSC 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 initial appeal from the director's denial of the subsequent Motion to Reopen. Therefore, the case will be remanded and the director shall consider the applicant's response as a Motion to Reopen.

Furthermore, the applicant has provided insufficient evidence to establish his continuous residence and continuous physical presence during the required time period. 8 C.F.R. §§ 244.2 (b) and (c). It is noted that there is little evidence of continuous residence and continuous physical presence prior to February 21, 2002, the date he filed his initial application and his vaccination card indicates that he received his early childhood vaccinations in Mexico.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.



Page 3

**ORDER:** The case is remanded to the director for further action consistent with the above and entry of a decision.