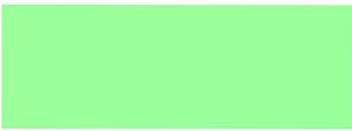
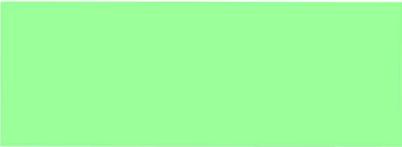


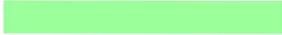


U.S. Citizenship  
and Immigration  
Services

(b)(6)

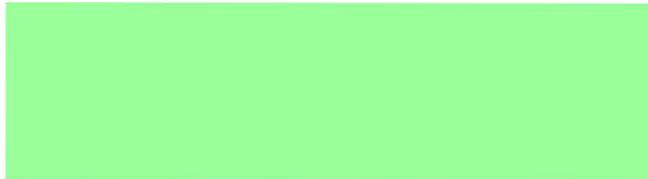


DATE: Office: VERMONT SERVICE CENTER FILE:   
**FEB 26 2013**

IN RE: Applicant: 

APPLICATION: Application for Temporary Protected Status under Section 244 of the  
Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT:

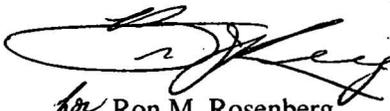


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

  
for Ron M. Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

The applicant claims to be a citizen of El Salvador who was granted Temporary Protected Status on April 30, 2005. The director subsequently withdrew the applicant's Temporary Protected Status on April 28, 2011, after determining that the applicant had abandoned his application by failing to respond to a Notice of Intent to Deny (NOID) re-registration and to Withdraw TPS.

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 on January 18, 2011, the director issued to the applicant a Notice of Intent to Deny his TPS re-registration application and a Notice of Intent to Withdraw the applicant's TPS status and requested the applicant to submit, within thirty-three (33) days, a completed Form I-821, with each question in part 4 answered properly. The director also requested the applicant to submit evidence relating to his military service in El Salvador and his weapons training. The applicant was granted thirty-three (33) days to submit the requested evidence.

The record does not contain a response from the applicant; therefore, the director concluded that the applicant had abandoned his application. The director denied the applicant's re-registration application and withdrew his TPS. The director advised the applicant that, if he disagrees with the decision, or has additional evidence to show that the decision is incorrect, that he may appeal the decision, within thirty-three (33) days of the decision, by filing a completed Form I-290B, Notice of Appeal or Motion.<sup>1</sup>

On May 31, 2011, the applicant timely filed a Form I-290B appealing the decision of the director to deny his re-registration and to withdraw his TPS status. The applicant stated that he did not intentionally fail to respond to the NOID, that he did not understand the request from the director and went to a friend for help. The applicant stated that his friend told him that he has "nothing to be concerned about and did not need to respond." The applicant then submitted a completed Form I-821 with all the parts properly completed as instructed in the NOID and provided a detailed affidavit and documentation relating to his military service and training in El Salvador.

As noted, the director erroneously instructed the applicant to file an appeal of the decision to the AAO instead of filing a motion to reopen and reconsider. However, as the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Therefore, the case will be

---

<sup>1</sup> The director erroneously instructed the applicant to file an appeal instead of a motion to reopen and reconsider. 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).

(b)(6)

Page 3

remanded and the director shall consider the applicant's response as a motion to reopen and reconsider and fully adjudicate. The director may request any additional evidence that he considers pertinent to assist with the determination of the applicant's eligibility for TPS. Upon receipt of all 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 action consistent with the above and entry of a decision.