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U.S. Department of Justice

Immigration and Naturalization Service

PUBLIC COPY

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

FEB 28 2003

FILE: [redacted] Office: Texas Service Center Date:
SRC 01 154 70204

IN RE: Applicant: [redacted]

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

IN BEHALF OF APPLICANT:

[redacted]

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision 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.

Kathleen M Kelley

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 on appeal. The appeal will be rejected, and the case will be remanded 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. § 1254a.

The director determined that the applicant failed to submit additional evidence, as had been requested. The director, therefore, denied the application due to abandonment.

On appeal, counsel asserts that the applicant was not able to submit the requested evidence because a change of address was made and he did not get the notification on time. Additionally, the applicant was not able to provide the requested evidence because he was arrested in 1994 when he was a minor, and the case was handled by the juvenile court. Counsel submits additional evidence.

Because the Federal Bureau of Investigation report, contained in the record of proceeding, reflects that the applicant was arrested on August 9, 1994, and charged with delivery of cocaine, he was requested on March 2, 2002, and again on July 2, 2002, to submit the arrest report and the court's final disposition of this offense. Because he failed to comply, the director denied the application based on abandonment.

8 C.F.R. § 103.2(b)(13) provides that if all requested initial 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)(15) provides that a denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under 8 C.F.R. § 103.5.

An appeal was subsequently filed by the applicant. However, there is no appeal to the director's decision in the present case. The appeal will, therefore, be rejected. The applicant, however, has submitted additional evidence for the record. Therefore, the case will be remanded to the director to reopen the matter on a Service motion, and to adjudicate the application supported by all of the documentation. The director shall enter a new decision which, if adverse to the applicant, is to be certified to the Associate Commissioner, Examinations, for review.

ORDER: The appeal is rejected. The case is remanded for appropriate action consistent with the above discussion and entry of a new decision.