

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

MI



JAN 19 2007

FILE:



[EAC 99 144 50808]
[WAC 05 224 86560]

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Applicant:



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

Handwritten signature of Robert P. Wiemann in black ink.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Vermont Service Center. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the case will be remanded for further consideration and action.

The applicant is a citizen of Honduras 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 application for TPS under receipt number EAC 99 144 50808. The Director of the Vermont Service Center denied the initial application on December 28, 2000, after determining that the applicant had abandoned her application by failing to appear for her fingerprint appointment or request another opportunity to be fingerprinted. However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the fingerprint appointment notice was mailed only to the applicant's representative, and not to the applicant at her address of record. Furthermore, the appointment notice was mailed to the applicant's representative at an incorrect address. The notice was mailed to the applicant's representative at [REDACTED]. The correct address was [REDACTED].

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 2005, and indicated that she was re-registering for TPS or renewing her temporary treatment benefits. The director denied the application on July 23, 2005, because the applicant's initial TPS application had been denied and she was not eligible for re-registration or renewal of temporary treatment benefits.

The denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, that decision will be remanded to the director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Salvadorans.

It is noted that the record of proceedings, as it is presently constituted, does not contain sufficient evidence to establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

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 initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.