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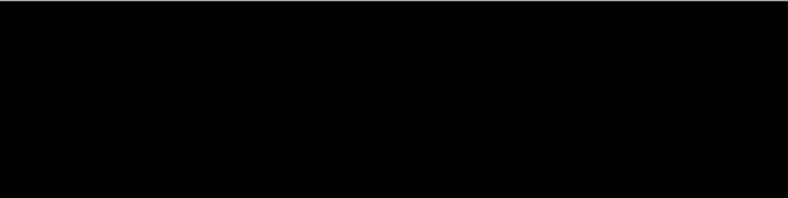


FILE: [REDACTED] OFFICE: California Service Center Date: MAY 21 2007
[WAC 05 074 70816
as it relates to LIN 99 223 51542]

IN RE: Applicant: [REDACTED]

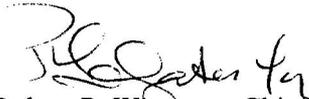
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant claims to be a native and 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 record reveals that the applicant filed a first Form I-821, Application for Temporary Protected Status, with the Nebraska Service Center (NSC) on July 1, 1999, during the initial registration period for Hondurans (LIN 99 223 51542 relates). The Chicago District Director denied the application on March 11, 2003, after determining that the applicant had abandoned his application by failing to appear for an interview required in connection with his application.¹

The applicant filed the current Form I-821 with the CSC on December 13, 2004, and indicated that he was re-registering for TPS. The CSC director denied the re-registration application on June 27, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.² The applicant filed his current appeal from that decision on July 25, 2005.

A review of the record of proceedings reveals that the Chicago district director's decision to deny the application due to abandonment was in error. Specifically, the record reveals that the notice to appear for an interview issued by the Chicago District Office on February 22, 2003, was mailed to the applicant at the wrong address, [REDACTED]. The applicant had notified CIS of a new address, [REDACTED], when he submitted an application for annual re-registration on August 12, 2002.

The Chicago District Director's denial of the initial application will be remanded for further adjudication of the applicant's initial TPS application. The CSC 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, the decision concerning the application for TPS re-registration will also be remanded to the CSC 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 Hondurans.

It is noted that the applicant has failed to submit sufficient evidence to establish his nationality and identity, as required under the provisions of 8 C.F.R. § 244.9(a)(1).

¹ A motion to reopen that decision was filed by the applicant, through counsel, on September 20, 2005. The Chicago district director dismissed the motion to reopen as late, and reaffirmed his decision to deny the application, on May 18, 2006.

² If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must re-register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

It is further noted that as a result of being fingerprinted in connection with his applications for TPS, CIS received reports from the Federal Bureau of Investigation (FBI) indicating that the applicant was arrested on January 23, 1999, and charged with "Possess Cannabis."

Finally, it is noted that the applicant's mother, [REDACTED] [REDACTED] appears to be an alien currently eligible to be a TPS registrant.

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