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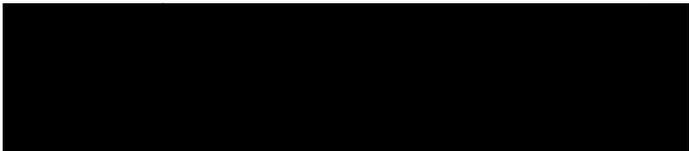


U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER Date:

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant states that he is 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 director denied the application because the applicant failed to submit evidence of his nationality, and failed to comply with the fingerprint requirement.

"Affected Party" means the person or entity with legal standing in a proceeding. The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) states:

Meaning of affected party. For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding... An affected party may be represented by an attorney or representative in accordance with part 292 of this chapter.

8 C.F.R. § 292.4(a) states, in pertinent part, that "An appearance shall be filed on the appropriate form by the attorney or representative appearing in each case.... A notice of appearance entered in application or petition proceedings must be signed by the applicant or petitioner to authorize representation in order for the appearance to be recognized by the Service."

An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee which has been accepted will not be refunded. 8 C.F.R. § 103.3(a)(2)(v).

In this case, the appeal was filed by [REDACTED] who indicated that he is the attorney or representative for the applicant. The record, however, does not contain a Form G-28, Notice of Entry of Appearance as Attorney or Representative, indicating that [REDACTED] authorized to act as attorney or representative for the applicant. Therefore, the appeal will be rejected.

It is noted that the record includes a previous application filed on June 1, 1999, listing the applicant as [REDACTED] of Mendota, California. The director denied that application on June 11, 2000, due to abandonment for failure to respond to a request for additional evidence relating to nationality, continuous residence and continuous physical presence in the United States for the requisite timeframes. In that case, the director erroneously informed the applicant that an appeal could be filed within 33 days of the date of the decision. The applicant did not file an appeal or motion on that application.

The instant application was filed on June 5, 2000, listing the applicant as [REDACTED] of Las Vegas, Nevada. The birth documents submitted with the instant application, however give the name as [REDACTED]. On appeal in the instant case, the applicant states that he has lived in Las Vegas, Nevada, since entering the United States on October 15, 1998, and that he has never resided in California. It is noted that the two applications provide the same biographic information and translations regarding the applicant's birth date, place of birth and names of the parents. The two applications, however,

provide different dates of entry and different signatures. The signatures on the applications also differ from the signature on a health card, Clark County Health District, Las Vegas, Nevada, submitted as photo identification for [REDACTED]. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish his identity.

Finally, for the record, it is noted that the director's decision erred in the instant case in stating that the applicant failed to appear for fingerprinting at [REDACTED] California. The record reflects that the fingerprint notification mailed to the address provided by the applicant in Las Vegas, Nevada, indicates he was to appear for fingerprinting [REDACTED]. The applicant did not account for his failure to appear for fingerprinting in Las Vegas.

Because the appeal was improperly filed by a party that does not have standing, these issues need not be further addressed at this time.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is rejected.