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U.S. Citizenship
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FILE:



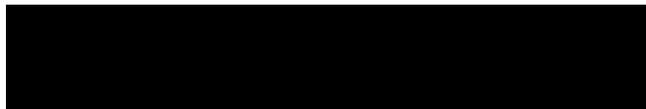
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Office: TEXAS SERVICE CENTER

Date: MAR 10 2005

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:

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, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded.

The applicant 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 determined that the applicant failed to respond to a request for evidence to establish his eligibility for TPS. The director, therefore, denied the application.

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 the applicant filed his application on January 15, 2002. On February 20, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his identity, his nationality and his physical presence in the United States from January 5, 1999. The record does not contain a response from the applicant; therefore, the director concluded that the applicant had abandoned his application and issued a Notice of Decision to Deny on April 17, 2003. The director advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen.

The applicant responded to the director's Notice of Decision to Deny on May 13, 2003. The applicant states that he wants to reopen his case because he has resided in the United States since 1997 and wants to be legal. The applicant also provides additional documentation in an attempt to establish his continuous residence and continuous physical presence in the United States during the qualifying period.

The director accepted the applicant's response as an appeal and forwarded the file to the AAO. However, as the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Therefore, the case will be remanded and the director shall consider the motion.

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.