



U.S. Citizenship  
and Immigration  
Services

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FILE:

[REDACTED]  
[EAC 03 188 50103]

Office: Vermont Service Center

Date:

NOV 18 2005

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:  
[REDACTED]

**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, Director  
Administrative Appeals Office

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

The applicant is stated 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 his initial application [EAC 99 203 53746] on May 27, 1999. On August 14, 2000, that application was denied due to abandonment because the applicant failed to respond to the director's April 19, 2000 request for evidence. It is also noted that the applicant had failed to respond to the director's October 12, 1999 request as well.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on June 2, 2003. The director denied the instant application [EAC 03 188 50103] on July 3, 2003, because the applicant's initial application had been denied.

On appeal, counsel, on behalf of the applicant, states that the applicant was precluded from being able to file a timely motion to reopen because the director's decision to deny the initial application was not sent to the applicant's current address.

A review of the record of proceedings reflects that the director sent the notice of denial dated August 14, 2000, regarding his initial TPS application to an incorrect address of [REDACTED] Bronx, New York, instead of [REDACTED] in Harrisonburg, Virginia. The applicant indicated a new address on his application for employment authorization and his re-registration for TPS filed on May 26, 2000.

Therefore, the case will be remanded and the director shall consider counsel's response in the issuance of a new decision.

It is noted that counsel did not provide any additional evidence, on appeal, to establish the applicant's qualifying continuous residence and continuous presence in the United States.

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 entry of a new decision.