



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: AUG 01 2006
[WAC 05 083 72140]

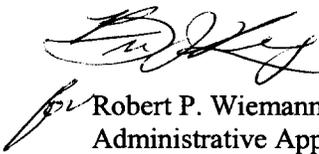
IN RE: Applicant: [REDACTED]

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further 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 an initial TPS application on August 16, 2000, under Citizenship and Immigration Services (CIS) receipt number WAC 01 043 52159. The director denied that application on August 11, 2003, after determining that the applicant had abandoned her application based on her failure to appear for fingerprinting. The applicant filed a motion to reopen on September 15, 2003, and indicated that she never received the appointment letter to be fingerprinted. That motion remains unadjudicated by the director.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 22, 2004, and indicated that she was re-registering for TPS. The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

As noted above, the applicant filed a motion to reopen the initial TPS application. That motion must be addressed by the director before a decision is made on the applicant's re-registration application. Therefore, the director's decision to deny the re-registration application will be withdrawn.

As the director's initial decision was based on abandonment, the AAO has no jurisdiction on this case. Therefore, the case will be remanded and the director shall consider the motion.

It is noted that although the record of proceeding contains an Honduran birth certificate and English translation, the certificate was not accompanied by a photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). It is further noted that the applicant filed her initial TPS application on August 16, 2000, after the initial registration period for Hondurans (from January 5, 1999 to August 20, 1999) had closed. There is no evidence in the record that the applicant fell within the provisions described in 8 C.F.R. § 244.2(f)(2). Additionally, documents contained in the record of proceeding are insufficient to establish that the applicant met the criteria for continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c).

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.