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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

[T94 274 717]
[WAC 05 090 72461]

Office: CALIFORNIA SERVICE CENTER

Date: AUG 04 2006

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:



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.

Cindy N Gomez
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, (CSC), and is now before the Administrative Appeals Office 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 a Form I-821, Application for Temporary Protected Status, during the initial registration period under Citizenship and Immigration Services (CIS) [receipt number SRC 99 193 53600.] The Director, Texas Service Center, (TSC), denied that application on October 9, 2002, after determining that the applicant had abandoned his application by failing to respond to a Notice of Intent to Deny, (NOID).

The applicant filed the current application, on December 29, 2004, and indicated that he 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.

Prior to the denial of his initial TPS application by the Director, Texas Service Center, (TSC), the applicant filed a Form I-821, Application for Temporary Protected Status, and a Form I-765, Application for Employment Authorization, providing updated address information. The director approved the Form I-765 on October 17, 2001. However, the TSC director sent both the Notice of Intent to Deny and a denial notice dated October 9, 2002, concerning the applicant's initial Form I-821 to the address that he listed on his initial application and not to the latest address that he had provided for the record.

The applicant has provided sufficient evidence to indicate eligibility for TPS except for documentation to establish that he is a national or citizen of Honduras. He has provided only a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). The director shall allow the applicant sufficient time to submit the requested evidence.

It is noted that the record contains an outstanding warrant of removal issued at San Antonio, Texas, on February 24, 1997. If the applicant establishes his Honduran nationality, the granting of TPS prevents the enforcement of this warrant until such time that TPS for Honduras is terminated, and the applicant would be permitted to remain in the United States, barring any subsequent reasons for withdrawal of his TPS based upon any prohibitive actions barred in section 244 of the Act. The removal of the applicant also is prohibited until a final decision is rendered in this TPS decision regarding the applicant's nationality.

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.

ORDER: The denial of the initial application [SRC 99 193 53600], is withdrawn. The case is remanded to the director.