



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **AUG 28 2006**

[WAC 05 096 73916]

IN RE:

Applicant:



APPLICATION:

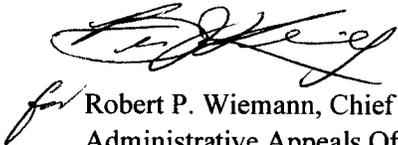
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


for 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 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, under Citizenship and Immigration Services (CIS) receipt number SRC 99 170 55323.] The Interim District Director, Miami, Florida, denied that application on September 22, 2003, after determining that the applicant had abandoned his application by failing to respond to a request for evidence and that the applicant had not contacted his office. The evidence requested by the director included: evidence that the applicant had been continuously physically present and had continuously resided in the United States since on or before December 30, 1998 and that he had remained in this country since the last entry. Additionally, the director requested a certified copy of the applicant's arrest report and court disposition for his petty theft arrest by the Metro-Dade Police Department on June 11, 1995 as well as a police clearance from that department.

The applicant filed the current application, on January 4, 2005, 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 this application by the district director, the applicant filed a Form I-765, Application for Employment Authorization, and a Form I-82, Application for Temporary Protected Status, providing updated address information. However, the district director erred by sending the applicant a denial notice dated September 22, 2003, concerning his initial Form I-821 to an incorrect address, namely apartment 1708, and not apartment 1703, the address that he listed on the latest applications that he had provided for the record.

As the district director's decision was erroneously issued, the applicant is still eligible to re-register for extension of TPS benefits, and the sole reason stated by the CSC director has been overcome.

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 is withdrawn. The case is remanded to the director for the entry of a new initial eligibility determination.