



U.S. Citizenship
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Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: AUG 28 2006
[WAC 05 098 74181]

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:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Vermont Service Center (VSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC) and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO, and the case will be remanded for further consideration and action.

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 applicant filed an initial application for TPS under receipt number EAC 99 252 50658. The director denied that application on December 4, 2000, because the applicant had abandoned her application by failing to appear for fingerprinting.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 16, 2005, and indicated that she was re-registering for TPS.

In this case, the applicant has not previously been granted TPS because she had not appeared for fingerprinting. However, the record reflects that the applicant appeared for fingerprinting and that her CIS fingerprint processing was completed on March 10, 2005 and the report indicated that the applicant did not have a criminal record as of that date that would bar her from receiving TPS.

In this case, the director had information in the file indicating that the application could no longer be considered abandoned based on the failure to appear for fingerprinting issue. Therefore, a denial because the applicant had abandoned her case was not appropriate.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the application for re-registration is also withdrawn as it is dependent upon the adjudication of the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

It is noted that the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.