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FILE:

[EAC 99 252 50116]
[WAC 05 091 72144]

Office: CALIFORNIA SERVICE CENTER

Date: **DEC 29 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:

SELF-REPRESENTED

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.

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 or renewal of temporary treatment benefits 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 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.

It is noted that the record contains two completed Forms G-28, Notice of Appearance of Attorney or Representative. Both forms are signed by [REDACTED] who indicates that she is an accredited representative associated with [REDACTED] Bay Shore, New York. However, it does not appear that Ms. [REDACTED] is authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

The applicant filed a first Form I-821, Application for Temporary Protected Status, with the Vermont Service Center (VSC) on August 19, 1999, during the initial registration period (EAC 99 252 50116 relates). That application was denied on due to abandonment on September 6, 2000, because the applicant failed to respond to a request for evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director denied a motion to reopen that decision on June 14, 2005, and reaffirmed his decision to deny the application. However, the record of proceedings reveals that the director's decision to deny the applicant's first Form I-821 was in error. Specifically, the record reveals that the request for evidence, the denial of the application, and the denial of the motion to reopen were mailed to the applicant in care of his unauthorized representative.

The applicant filed the current Form I-821 on December 30, 2004, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits (WAC 05 091 72144 relates). The director of the CSC denied the application on July 23, 2005, because the applicant's prior TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS or renewal. The applicant filed his appeal from that decision on August 22, 2005.

The VSC director's denial of the initial application will be withdrawn, and the application will be remanded for a new decision. Since the director of the CSC's denial of the application for re-registration or renewal of temporary treatment benefits is dependent upon the adjudication of the initial application, the decision to deny the application for re-registration or renewal of temporary treatment benefits will also be remanded for further adjudication. The director of the CSC may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Hondurans.

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 initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The application for re-registration or renewal of temporary treatment benefits is remanded for further action consistent with the director's new decision on the initial application.