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FILE: [REDACTED]
[WAC 05 097 73242]

Office: CALIFORNIA SERVICE CENTER

Date: **JUN 12 2006**

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 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, (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 51592. The District Director, San Antonio, Texas, denied that application on January 7, 2003, because the applicant had “failed to register for an extension of his TPS benefit prior to July 2, 2002.”

The applicant filed the current application Form I-821, on January 5, 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.

The record reflects that no decision had been made on the applicant’s initial application that was filed on June 11, 1999, before the District Director, San Antonio, denied his application for failing to timely re-register for TPS. Only aliens granted TPS status must (emphasis added) register annually with CIS. 8 C.F.R. § 244.17(a). As the applicant had not been granted TPS status prior to the District Director’s January 7, 2003 decision, a denial based upon his failure to re-register was premature as he was not required to do so. Notwithstanding, the record shows the applicant filed for re-registration on July 3, 2000, June 20, 2001, May 21, 2002, June 23, 2003, and January 5, 2005.

As the initial decision to deny TPS status 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.

It is noted that the applicant has provided insufficient evidence to establish that he is a national or citizen of Honduras. He has provided 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).

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 51592], is withdrawn. The case is remanded to the director for the entry of a new initial eligibility determination.