



U.S. Citizenship
and Immigration
Services

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FILE:



[WAC 05 084 71819]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUL 03 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 office that originally decided your case. Any further inquiry must be made to that office.

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further 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 record reveals that the applicant filed a TPS application during the initial registration period on January 27, 1999, under Citizenship and Immigration Services (CIS) receipt number WAC 99 112 50672. The director denied that application on December 1, 2000, after determining that the applicant had abandoned her application based on her failure to appear for fingerprinting. The director dismissed two motions to reopen on October 19, 2004 and December 17, 2004, because the motions were untimely filed on September 15, 2004 and December 3, 2004, respectively.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 23, 2004, and indicated that she 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.

On appeal, counsel asserts that the applicant did not receive the fingerprint notification, and that pursuant to the Freedom of Information Act, it was noted that the notification was mailed to the applicant's previous address.

A review of the record of proceeding indicates that on June 10, 2000, the applicant was sent a fingerprint notification to appear at the Application Support Center at Bellflower, California, on June 24, 2000, for fingerprinting. The notice was sent to the applicant at [REDACTED] Los Angeles, CA. Because the applicant failed to appear for fingerprinting, the director determined that the applicant abandoned her application and denied the application on December 1, 2000. The denial notice was also mailed to the [REDACTED] address. It is noted, however, that prior to the mailing of the fingerprint notification, the applicant filed Form I-765, Application for Employment Authorization, listing the applicant's current address at that time, [REDACTED] Los Angeles, CA. Form I-797C, Notice of Action, dated September 7, 2000, was mailed to the applicant at the [REDACTED] address advising her that the Form I-765 was received on June 2, 2000.

Accordingly, the director's finding that the applicant abandoned her initial application will be withdrawn.

It is noted that the applicant had subsequently appeared for fingerprinting, as the record contains two Federal Bureau of Investigation fingerprint results reports dated January 17, 2001, and January 28, 2005.

The case will be remanded so that the director could render a full adjudication of the application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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 case is remanded for appropriate action consistent with the above discussion and entry of a new decision.