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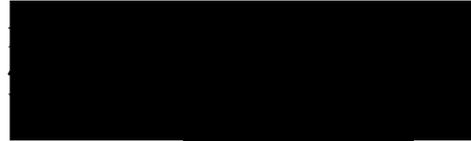


U.S. Citizenship  
and Immigration  
Services

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FILE:

[WAC 05 119 73064]

Office: CALIFORNIA SERVICE CENTER

Date:

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. 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.

The record reveals that the applicant filed his initial TPS application on July 17, 2001, under Citizenship and Immigration Services (CIS) receipt number LIN 01 229 51644. The Director, Nebraska Service Center, approved that application on November 7, 2001.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 27, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application as abandoned because the applicant failed to appear for fingerprinting. As a result, the director also withdrew the applicant's temporary protected status.

In compliance with the director's instructions, the applicant submitted a motion to reopen his case. On motion, the applicant requested that his TPS application be reopened. According to the applicant, he never received the notice to appear for fingerprinting.

The director accepted the motion as an appeal and forwarded the file to AAO in error. However, the applicant has, in fact, submitted a motion to reopen that must be addressed by the director.

As the director's decision was based on lack of prosecution, the AAO has no jurisdiction on this case, and it may not be appealed to the AAO. Therefore, the case will be remanded and the director shall consider the motion.

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 to the director for further action consistent with the above and entry of a decision.