



U.S. Citizenship
and Immigration
Services

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FILE:

[WAC 05 082 76208]

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 claims to be 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 Form I-821, Application for Temporary Protected Status on August 5, 2003 under CIS receipt number SRC 03 218 55458. The application was denied by the Director, Texas Service Center, on March 17, 2004 because the applicant failed to submit documents in response to a Notice of Intent to Deny requesting additional evidence and, therefore, had abandoned his application.

The applicant filed a Motion to Reopen his application on April 16, 2004 and the director forwarded the motion to the AAO in error. The AAO remanded the case to the director because the denial was based on an abandonment, therefore, the AAO did not have jurisdiction over the motion.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 21, 2004 and indicated that he was re-registering for TPS. The Director, California Service Center, denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was therefore not eligible to apply for re-registration under TPS.

The director's decision is in error. The applicant filed a motion to reopen the initial TPS application on April 16, 2004. The record does not indicate that a determination has been made by the director regarding said motion. Therefore, applicant's initial TPS application has not been denied

The decision will be withdrawn and the case will be remanded. The director shall render a decision on the Motion to Reopen before making a determination on the re-registration 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 to the director for further action consistent with the above and entry of a decision.