



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

Office: California Service Center

Date: SEP 29 2006

[WAC 05 082 72530]

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:

[REDACTED]

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 applicant's Temporary Protected Status was denied by the Director, California Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the case will be remanded for further action.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 his initial TPS application on August 25, 1999, under CIS receipt number EAC 01 130 51603. The Director, Vermont Service Center (VSC), denied the application on June 28, 2001, due to abandonment because the applicant failed to appear for his scheduled fingerprint appointment.

The applicant filed a subsequent TPS application under CIS receipt number SRC 01 224 69236 on June 20, 2001, which was approved by the Director, Texas Service Center, on July 22, 2003.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on December 21, 2004, and indicated that he was re-registering for TPS.

The director denied the instant re-registration application on July 23, 2005, 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 the applicant's eligibility for TPS.

A review of the record of proceedings reveals that the applicant's initial application for Temporary Protected Status was denied on June 28, 2001; however, the applicant's subsequent TPS application was approved on July 22, 2003.

Therefore, the case will be remanded. The director shall issue a new decision that, if adverse to the applicant, shall be certified to the AAO for review. 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 director's decision is withdrawn. The matter is remanded for further action.