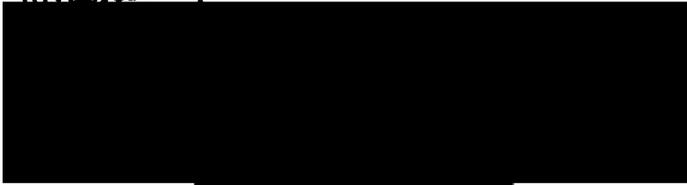




U.S. Citizenship
and Immigration
Services

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invasion of personal privacy



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FILE:



Office: California Service Center

Date: **APR 30 2007**

[WAC 05 060 70181]

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 APPLICATION: 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. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and 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 an initial TPS application on June 11, 1999 under CIS receipt number SRC 99 193 53833. The District Director, Charlotte, North Carolina, denied the application on September 16, 2002, because the applicant failed to submit requested evidence. The district director, therefore, denied the application for abandonment. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen within the requisite period.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 29, 2004, under CIS receipt number WAC 05 060 70181, and indicated that he was re-registering for TPS. The Director, California Service Center, denied that application on October 17, 2005, as the applicant's initial TPS application had been denied, and the applicant was not eligible to re-register for TPS.

On appeal, the applicant does not state a reason for the appeal. With the appeal, in an attempt to establish his eligibility for TPS, the applicant submits photocopies of: a North Carolina Application, License, and Certificate of Marriage, signed March 14, 1994; an unclear document from [REDACTED], dated March 29, 2002; a North Carolina Division of Motor Vehicles receipt, dated March 24, 2002; a receipt from T&A Motors, dated March 24, 2002; 3 receipts from the U.S. Postal Service issued in 2003; a CIS letter, referencing a status inquiry on June 12, 2003; a receipt letter from the Social Security Administration, dated July 21, 2003; 5 CIS receipt letters, 2 dated June 19, 1999, 1 dated June 19, 2003, and 2 dated November 30, 2004; 2 CIS Form(s) I-797D, dated July 15, 2003, and August 5, 2005; 3 earnings statements, 2 issued in 2003, and 1 in 2004; an Installment Agreement from [REDACTED], dated April 17, 2004; 2 payment notices from [REDACTED] dated October 7, 2003; a CIS status response letter, dated July 8, 2005; a CIS Approval Notice, under CIS receipt number WAC 05 060 7018, dated July 26, 2005; and a CIS Fingerprint Notification, dated December 23, 2004.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

The initial denial for abandonment was, however, in error. As noted above, the District Director, Charlotte, North Carolina, denied the initial application because of lack of response to a request for additional evidence. However, the AAO notes there is no evidence in the record that a Request for Evidence, or a Notice of Intent to Deny, was ever sent to the applicant. Without evidence that the applicant received any of these notices, there is no basis to determine whether the applicant failed to comply with the director's instructions in the request for evidence, and the appeal instructions.

The director's denial of the initial application will be withdrawn; the case will be remanded and the director shall reissue the request for evidence to give the applicant the opportunity to provide necessary evidence to establish his eligibility for TPS.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, that decision will be remanded to the director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Salvadorans.

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 initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.