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U.S. Citizenship  
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**AUG 09 2007**

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER  
[WAC 05 070 75821 as it relates to SRC 99 159 52238]

Date:

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 initial application was denied by the Director, Texas Service Center (TSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC), and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO, and 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 a first Form I-821, Application for Temporary Protected Status, on May 4, 1999, under Citizenship and Immigration (CIS) receipt number SRC 99 159 52238. The application was denied by the TSC director on September 28, 2004, due to abandonment because the applicant failed to submit documents in response to a Request for Evidence (RFE), dated August 25, 2004.

The applicant filed the current Form I-821 on December 29, 2004, and indicated that he was re-registering for TPS. The CSC director denied the re-registration application on June 9, 2005, 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 applicant filed the current appeal from that decision on July 12, 2005.

On appeal, the applicant submits a mailing receipt indicating that he submitted his response on October 4, 2004. Counsel argues that the applicant should have been given twelve weeks to respond, therefore, his response was submitted timely.

The director's decision is in error. The initial TPS application was denied due to abandonment on September 28, 2004, because the applicant failed to submit documents in response to an RFE. The RFE was mailed to the applicant on August 25, 2004, requesting the applicant to complete and sign a new Form I-821 because CIS was unable to locate his initial TPS application.

The application was denied in error because the applicant was not provided sufficient time to submit his response as required by the regulations in 8 CFR § 103.2(b)(8). Further, a review of the record indicates that the original Form I-821 is in the file. Therefore, it was not necessary to request the applicant to submit a reconstructed application.

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 dependant upon the adjudication of the initial application. Since the initial application is being remanded, the denial of the re-registration application will also 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.