



U.S. Citizenship
and Immigration
Services

M

PUBLIC COPY

identifying data deleted to
prevent ~~clearly~~ unwarranted
invasion of personal privacy

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: FEB 08 2007

[WAC 05 098 77231 AS IT RELATES TO SRC 99 118 53146]

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. 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 applicant filed an initial application for TPS under receipt number SRC 99 118 53146. The director denied the initial application on July 13, 2004, after determining that the applicant failed to appear for his fingerprinting appointment and, therefore, had abandoned his application.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 6, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

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.

On appeal, the counsel claims the applicant never received the fingerprint notice for February 27, 2004. Counsel further argues that had the applicant received the notice, he would have attended his appointment as exemplified by his appearance at his fingerprint appointment on March 3, 2005.

The record shows that the applicant has been fingerprinted on two prior occasions, on February 20, 2001, and March 3, 2005. He also filed seven TPS extension or re-registration applications in the years 2000, 2001, 2002, 2003, 2004, 2005 and 2006. Therefore, the applicant has exhibited that he does not intend to abandon his TPS application.

A review of the record shows that the denial notice dated July 13, 2004, states that "(o)n April 29, 2003 you were notified by this office that to appear for fingerprinting on February 27, 2004 at BCIS Miami-Biscayne." However, the record does not contain the referred-to notice. Instead, there is a fingerprint notice for an appointment on May 27, 2003, with a wrong address.

The director's denial of the initial application is in error and 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, 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 Hondurans.

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.