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**U.S. Citizenship
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JAN 03 2007

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:
[EAC 99 219 50884]
[WAC 05 131 76060]

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:



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 due to abandonment by the Director, Vermont Service Center (VSC). A subsequent application for re-registration or renewal of temporary treatment benefits 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 AAO, and the case will be remanded to the director of the CSC 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 July 2, 1999, during the initial registration period (EAC 99 219 50884 relates). On May 16, 2000, the VSC director denied the application due to abandonment because the applicant failed to appear as scheduled for fingerprinting as required in connection with her application. However, the record of proceeding reveals that the request to appear for fingerprinting was forwarded to the applicant at a wrong address; therefore, the decision to deny the application was in error. Furthermore, the denial of the application stated, in error, that the denial related to an Application to Register Permanent Residence or Adjust Status (Form I-485), rather than a TPS Form I-821 application.

The director's denial of the initial application will be withdrawn, and the application will be remanded for a new decision. Since the director of the CSC's denial of the application for re-registration or renewal of temporary treatment benefits is dependent upon the adjudication of the initial application, the decision to deny the application for re-registration or renewal of temporary treatment benefits will also be remanded for further adjudication. The director of the CSC may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Hondurans.

It is noted that the record does not contain sufficient evidence to establish the applicant's nationality and identity, as required under the provisions of 8 C.F.R. § 244.9(a)(1). It also does not contain sufficient evidence to establish that she satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. § 244.2(b) and (c).

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 VSC director's decision is withdrawn, and the application is remanded for a new decision. The application for re-registration or renewal of temporary treatment benefits is remanded to the director of the CSC for further action consistent with a new decision on the initial application.