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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: California Service Center  
[WAC 05 228 79796 as it relates to SRC 99 193 50483]

Date: MAY 08 2007

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 California Service Center. 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 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 a first Form I-821, Application for Temporary Protected Status, on June 10, 1999, under Citizenship and Immigration Services (CIS) receipt number SRC 99 193 50483. The application was denied by the TSC director on June 7, 2002, due to abandonment because the applicant failed to submit documents in response to a Request for Evidence (RFE).

The applicant filed the current Form I-821 on May 16, 2005, and indicated that he was re-registering for TPS. The CSC director denied the re-registration application on July 23, 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 August 26, 2005.

On appeal counsel claims that the applicant never received any notice from CIS that they intended to deny his TPS application and, therefore, was not given an opportunity to submit additional evidence.

The TSC director's decision is in error. The initial TPS application was denied due to abandonment on June 7, 2002, because the applicant failed to submit documents in response to an RFE. The RFE was mailed to the applicant on February 13, 2002, requesting him to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. A review of the record reveals that the U.S. Postal Service returned the RFE as undeliverable because it did not have the name and address of the intended recipient.

The TSC director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The CSC 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 decision to deny the application for re-registration 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 Hondurans.

It is noted that as a result of being fingerprinted in connection with this application, CIS received a report from the Federal Bureau of Investigation (FBI) indicating that the applicant was arrested in Lexington, Kentucky and charged with possession of a forgery device. In any future proceedings before CIS, the applicant must submit evidence of the final court disposition of this and any other charges against him.

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.