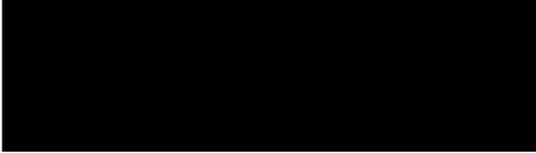




U.S. Citizenship  
and Immigration  
Services

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identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



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FILE:



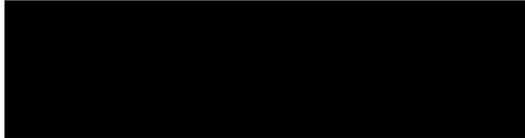
Office: California Service Center

Date: SEP 04 2007

[WAC 05 089 76510]

IN RE:

Applicant:



APPLICATION:

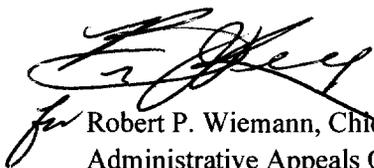
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office California Service Center. Any further inquiry must be made to that office.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The 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 stated 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 an initial TPS application on May 18, 1999, under CIS receipt number SRC 99 175 52856. The Texas Service Center Director denied that application due to abandonment on February 3, 2004, because the applicant failed to appear for scheduled fingerprinting on August 11, 2003. The director noted that the fingerprinting notice was mailed to the applicant's last known address. 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.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 28, 2004, under CIS receipt number WAC 05 089 76510, and indicated that he was re-registering for TPS. The Director, California Service Center, denied the re-registration application on November 21, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

As noted above, the Texas Service Center Director denied the initial application for abandonment because the applicant failed to report for fingerprinting. The AAO notes that the record does not contain a fingerprinting notification. Without evidence that the applicant received the fingerprinting notice, there is no basis to determine whether the applicant failed to comply with the director's instructions in the notice.

It is also noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report, completed on March 5, 2007, in connection with his re-registration application, shows no derogatory results.

However, the record reflects that the applicant has not submitted sufficient evidence to establish the requisite continuous residence since December 30, 1998, and his continuous physical presence in the United States from January 5, 1999, to the date of filing on May 18, 1999.

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 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.