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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

M1



FILE:



Office: VERMONT SERVICE CENTER

Date: **OCT 30 2008**

[EAC 08 048 50916, *appeal*]

[EAC 07 300 74132]

IN RE:

Applicant:



APPLICATION: Application for Employment Authorization under 8 C.F.R. § 274a.12(c)(19)

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 Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the application which was forwarded to the Administrative Appeals Office (AAO), on appeal. The case will be remanded for further action.

The applicant is stated to be a native and citizen of Honduras who applied for employment authorization under 8 C.F.R. § 274a.12(c)(19) as an alien with a pending application for Temporary Protected Status (TPS). On March 1, 2004, the Director, Texas Service Center, denied the underlying TPS application.

On August 13, 2007, the director denied the current Form I-765, Application for Employment Authorization, because the underlying TPS application had been denied. In response to the director's decision, the applicant filed a motion to reopen. The motion was dismissed on November 7, 2007 and the applicant filed a second motion to reopen on December 6, 2007.

There is no appeal to a denial of an application for employment authorization. The director erroneously considered the applicant's response to be an appeal and forwarded the file to the AAO. Therefore, the case will be remanded and the director shall consider the applicant's response as a motion to reopen.

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 case is remanded to the director for further action consistent with the above and entry of a decision.