

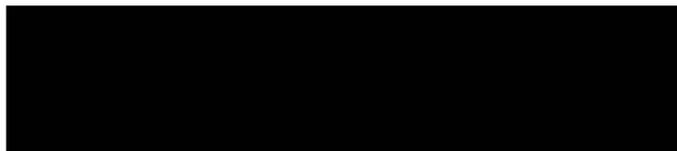
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529

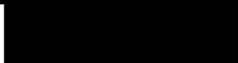


**U.S. Citizenship
and Immigration
Services**

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FILE:



OFFICE: Texas Service Center

DATE: **MAR 11 2008**

[SRC 99 161 53367]

INRE:

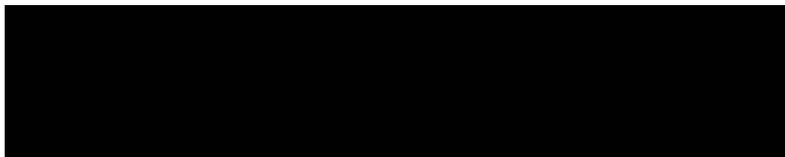
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office. The matter is now before the Administrative Appeals Office (AAO) on a motion to reopen. The case will be reopened and remanded to the service center.

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 director denied the application, because the applicant was inadmissible to the United States under section 212(a)(9)(A)(i) of the Act, based on his reentry into the United States within five years of the date of his removal. The director noted that the applicant had been deported from the United States on August 16, 1990, and that the applicant had failed to submit an application for waiver of this ground of inadmissibility. The director denied the application on May 27, 2000.

A subsequent appeal from the director's decision was dismissed on September 6, 2001, after the Director of the AAO also concluded that the applicant was inadmissible.

On motion to reopen, the applicant asks that CIS reconsider his application.

The AAO would note that the record contains a form I-601, Waiver of Inadmissibility, filed in July 2001, which has not been adjudicated. Accordingly, the motion to reopen will be sustained, and the application will be remanded for adjudication of the submitted I-601.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The motion to reopen is sustained and the application will be remanded for adjudication of the submitted I-601.