



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: FEB 14 2014

Office: VERMONT SERVICE CENTER

[Redacted]

IN RE: Applicant:

[Redacted]

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

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action.

On June 25, 2013, the director denied the application because the applicant failed to establish that he is a national of a foreign state designated by the Secretary, Department of Homeland Security (Secretary), and eligible for the granting of Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The regulation at 8 C.F.R. § 244.2(a) provides that an alien who is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act, may, in the discretion of the director, be granted TPS. Section 101(a)(21) of the Act defines the term "national" to mean a person owing permanent allegiance to a state.

By his own admission, the applicant admitted that on May 13, 1993, he filed a Form I-589, Application for Asylum and Withholding of Removal, claiming to be a national of Guatemala; that he obtained a Guatemalan birth certificate and presented it to an individual who then assisted him in filing the Form I-589; that he obtained employment authorization based upon the Form I-589; that on July 7, 1999, he filed a Form I-821, Application for Temporary Protected Status, using his brother's name [REDACTED]; that for four years he received employment authorization based upon the Form I-821; and that he began applying again for employment authorization as a Guatemalan under the Form I-589.

On March 11, 2009, the applicant filed a Form I-821 in his name and indicated that he was born in and is a citizen of Honduras.

The applicant complied with the director's request of December 21, 2009 and submitted an original passport, birth certificate and national identification document with English translations.

The director indicated that she was unable to determine the applicant's true identity and nationality based upon the submitted documents and the applicant's affidavit and denied the application.

The decision, however, lacks specificity as it did not address why the requested documents were not sufficient to resolve the inconsistencies in the record. Therefore, the case will be remanded for the director to address the evidence furnished in response to the notice of December 21, 2009 and make a determination as to its credibility. Any perceived shortcomings in the evidence must be specified by the director in order that the applicant has the opportunity to file a meaningful rebuttal. If warranted, the director may request the applicant's appearance for an interview. 8 C.F.R. § 103.2(b)(9).

ORDER: The case is remanded for appropriate action and decision consistent with the foregoing.