U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: NOV 03 2006
[SRC 99 220 51591]

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: SELF-REPRESENTED

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. 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 case will be remanded for further consideration and action.

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 applicant filed an initial application for TPS under receipt number SRC 99 220 51591. The director denied the initial application on July 7, 2004 due to abandonment, after determining that the applicant had failed to report for an interview with Citizenship and Immigration Services (CIS) as scheduled. The director advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen within 30 days.

The applicant responded to the director's decision on July 29, 2004. The applicant requested that his TPS application be reopened and stated that he failed to appear for the scheduled interview because the postman misplaced his mail in an incorrect mailbox.

The director erroneously accepted the applicant's response as an appeal instead of a motion to reopen and forwarded the file to the AAO. However, as the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Therefore, the case will be remanded and the director shall consider the applicant's response as a motion to reopen.

The TPS 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.

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 for a new decision.