



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: FEB 28 2007
[WAC 03 214 51770]
[WAC 05 125 71093]

IN RE: Applicant: [REDACTED]

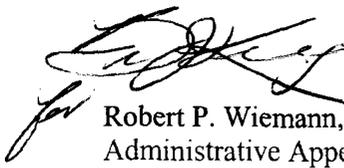
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

[REDACTED]

DISCUSSION: The initial application was denied by the District Director, Phoenix, Arizona. A subsequent application for re-registration was denied by the Director, California Service Center (CSC), and is currently before the Administrative Appeals Office 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 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 July 7, 2003, under Citizenship and Immigration Services (CIS) receipt number WAC 03 214 51770. The District Director, Phoenix, Arizona, denied that application on July 19, 2004, after determining that the applicant had abandoned her application based on her failure to appear for a scheduled interview. On September 1, 2004, the applicant filed an appeal from the denial decision. The Director, CSC, rejected the appeal on April 20, 2006, because the appeal was untimely filed, and the appeal did not meet the requirements of a motion to reopen or reconsider pursuant to 8 C.F.R. § 103.5(a)(2) and (3).

However, the record of proceedings reveals that the Phoenix district director's decision was in error. Specifically, the record reveals that: (1) the notice dated May 24, 2004, advised the applicant to appear for interview on June 10, 2003, regarding her Form I-821, Application for Temporary Protected Status; (2) subsequent to that notice, on September 3, 2003, the applicant submitted a change of address to [REDACTED]; The notice to appear for interview dated May 24, 2004, and the notice of denial dated July 19, 2004, were both mailed to the applicant at her previous address [REDACTED]; and (3) the record contains a Form G-28, Notice of Entry of Appearance as Attorney or Representative, dated June 19, 2003. The applicant's current address also appears on this form. Moreover, the applicant's (former) legal representative was not served with copies of the notice of interview and the notice of denial as required in 8 C.F.R. § 292.5(a). It is noted that the applicant's current legal representative also was not served with a copy of the CSC director's decision denying the re-registration application.

The Phoenix district director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The CSC 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 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 Phoenix district 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 a new decision on the initial application.