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

MA 1

FILE: [REDACTED]
[WAC 05 075 77791]

Office: CALIFORNIA SERVICE CENTER

Date: JUL 23 2007

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 application was denied by the Director, California 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 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 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 his initial TPS application on June 27, 2001, under Citizenship and Immigration Services (CIS) receipt number LIN 01 217 52392. The District Director, Chicago, Illinois, denied that application as abandoned on April 30, 2003, because the applicant failed to respond to a request for evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period and his eligibility to file for late initial registration. The applicant also failed to submit requested court documentation relating to his criminal record. There is nothing in the record to indicate that the applicant appealed the director's decision. The applicant filed a subsequent TPS re-registration application on May 16, 2003. The District Director, Chicago, Illinois, denied that application on September 2, 2005, because the applicant failed to submit requested court documentation relating to his criminal record. There is nothing in the record to indicate that the applicant appealed the director's decision. However, the record of proceedings reveals that the applicant has consistently claimed that he has never used an alias and never been arrested. The applicant also submitted the attestation document required by the Director, California Service Center indicating that he has not been convicted of any felony or two or more misdemeanors. In addition, the applicant indicated on page one of the notice that he did not have a police record and that "This problem was already clear up (sic) with INS." It does not appear that the applicant's statements or signed attestations were considered by the director prior to denying the applicant's TPS

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision addressing the applicant's claim that he has never been arrested and never used an alias. 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 offered to Salvadorans.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

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 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 the director's new decision on the initial application.