



U.S. Citizenship
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: NOV 16 2007
[WAC 05 096 75116]
[SRC 99 172 50364]

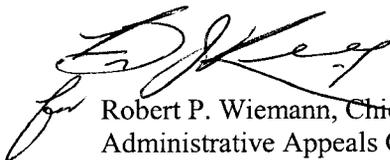
IN RE: Applicant: [REDACTED]

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 (CSC), and is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further 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 a TPS application during the initial registration period on May 13, 1999, under receipt number SRC 99 172 50364. A request for additional evidence (RFE) was issued on July 23, 2003, by the Director, Texas Service Center (TSC), requesting that the applicant submit evidence to show that he arrived in the United States prior to December 30, 1998, and that he had been continuously physically present from January 5, 1999, to the date of filing the application. On October 20, 2003, the applicant was again requested by the TSC director to submit evidence that he is a national of Honduras or Nicaragua. Again, in an undated Notice of Intent to Withdraw (ITW), in which neither a name nor an address was shown, the ITW indicated that the TPS application was approved [no approval date is shown on the ITW] and that no response was received for the request for evidence dated December 4, 2003, requesting that evidence be submitted to establish nationality and identity.¹ On March 17, 2004, the TSC director issued a Notice of Revocation of the Application for Employment Authorization (Form I-765) filed on January 25, 2003, and approved on December 4, 2003, because the applicant's Temporary Protected Status was withdrawn on March 17, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 4, 2005 [WAC 05 096 75116], and indicated that he was re-registering for TPS. The CSC director denied the re-registration application on September 29, 2005, because the applicant's initial TPS was withdrawn on March 17, 2004, and the applicant was not eligible to apply for re-registration for TPS.

There is no evidence in the record that the TSC had issued a final decision for either the July 23, 2003 RFE, the October 20, 2003 RFE, or the undated ITW, relating to the initial TPS application. Also, there is no evidence in the record that the applicant's initial TPS application was, in fact, approved. Additionally there is no evidence in the record that the approval of the applicant's initial TPS application was withdrawn on March 17, 2004, as maintained by the TSC director and the CSC director.

Therefore, the director's decision to deny the application will be withdrawn, and the application will be remanded for a new decision. 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 to the director for further action consistent with the above.

¹ It is noted that the applicant's Honduran birth certificate and a copy of a State of Florida driver's license were submitted with the applicant's initial TPS application.