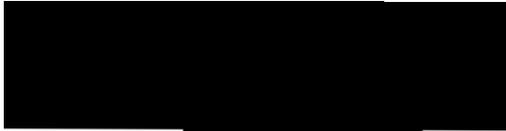


identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



M

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

AUG 08 2

[WAC 05 063 71640]

[WAC 05 218 52181, *motion*]

IN RE:

Applicant:



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 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 applicant filed an initial application for TPS under receipt number SRC 02 188 54126. The director denied the initial application after determining that the applicant had failed to respond to a request to establish his eligibility to file for late initial registration, evidence of his qualifying continuous residence and continuous physical presence in the United States, evidence of his nationality, and a copy of his birth certificate with English translation. The record does not contain a response from the applicant; therefore, the director concluded that the applicant had abandoned his application and issued a Notice of Denial on July 25, 2002. The director advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen. The applicant filed a motion that was erroneously sent to the AAO. On January 28, 2003, the AAO rejected the applicant's motion, since the denial was due to abandonment. The applicant filed a second motion, submitting the same evidence of continuous residence, but failed to submit evidence of his eligibility for late registration, or of his nationality or identity. The director accepted this as an appeal and forwarded the case to the AAO. However, as the director's decision was based on abandonment, the AAO had no jurisdiction on this case. Therefore, the case is being remanded to the director in a separate decision to consider the applicant's response as a motion to reopen.

The director denied the re-registration application because the applicant's initial application had been denied and the applicant is not eligible for re-registration. The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the denial of the initial application is being remanded to the director, this decision will also 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 Hondurans.

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 re-registration application is remanded for further action consistent with the director's new decision on the initial application.