



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

Office: California Service Center

Date:

JAN 28 2008

[REDACTED]
[WAC 05 099 79713,
as it relates to SRC 01 193 5115]
[Appeal #: WAC 05 230 50730]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

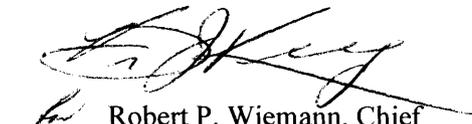
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for re-registration was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) 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 applicant filed an initial application for TPS under Citizenship and Immigration Services (CIS) receipt number SRC 01 193 5115. The Miami District Office Director denied the initial application on April 18, 2001, after determining that the applicant had failed to submit a police clearance and sufficient evidence to establish the requisite continuous residence and continuous physical presence in the United States. The applicant filed a motion to reopen on May 14, 2001. On March 25, 2003, the director granted the applicant's motion to reopen stating that the information contained in the motion was acceptable. The director ordered that the previous decision, dated April 18, 2001, be withdrawn. The director further stated that an appointment for the applicant to have his fingerprints taken would be sent to the applicant "shortly". A copy of the Applicant's Employment Authorization card, issued May 8, 2003, indicates his status as (A)(12), TPS approved.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 7, 2005, and indicated that he was re-registering for TPS. The Director, California Service Center, denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant reasserts his eligibility for TPS.¹ With his appeal, the applicant submits various documents, including employment and tax records, and court disposition records for two arrests. The court records indicates one misdemeanor conviction for the applicant.

It is noted, however, that the record of proceedings does not contain a decision on the initial application subsequent to the director's decision, dated March 25, 2003, to grant the applicant's motion to reopen and to withdraw the initial decision to deny, dated April 18, 2001. Therefore, the case is being remanded for the issuance of a new decision that sets forth the specific reasons for the denial of the initial application.

The director's denial of the application for re-registration is dependent upon the adjudication of the initial application. Since the initial application is still pending, 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 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 director's decision is withdrawn. The case is remanded to the director for further action consistent with the above and entry of a new decision.

¹ The applicant filed duplicate appeals (receipt numbers: WAC 05 230 50730 & WAC 07 030 51043) of the denial of the re-registration application, thereby necessitating two separate decisions by the AAO. The second appeal (receipt numbers: WAC 07 030 51043] is being remanded by the Chief, AAO, in a separate decision issued simultaneously with this decision.