



U.S. Citizenship
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Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: JUN 03 2009

[WAC 0508580484, as it pertains to

SRC 99 153 55562]

[WAC 05 236 50706, appeal]

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:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom
Acting 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 to the Vermont Service Center 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 applicant filed an initial application for TPS under receipt number SRC 99 153 55562. The director denied the initial application on January 6, 2000. However, the record of proceedings in this case appears to be incomplete. While the electronic record indicates that Form I-290B was forwarded to the AAO, the AAO has not received the applicant's appeal. The applicant has provided a copy of a Form I-290B, signed by the applicant on February 3, 2000 and bearing the receipt number SRC 00 102 51212, in which he appeals the January 6, 2000 decision of the director. The additional documentation submitted by the applicant reveals that the final disposition for a criminal charge was *nolle prosequi* (not prosecuted). In a separate decision, the AAO has withdrawn the director's denial of the initial application and remanded the case for a new decision.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant is not eligible to file a re-registration application.

On appeal of the re-registration application, the applicant stated that he is eligible for re-registration because he had filed a timely appeal of the denial of his initial application and that appeal was still pending.

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 has been withdrawn, the director's decision on the re-registration application will also be withdrawn and 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. It is noted that the record as constituted does not contain sufficient evidence to establish the applicant's qualifying continuous residence since December 30, 1998 and continuous physical presence from January 5, 1999 to the filing date of the TPS application.

Therefore, the case will be remanded to the director for consideration and discussion of all issues pertinent to this case. The director may request any additional evidence he considers pertinent. Similarly, the applicant may provide additional evidence within a reasonable period of time to be determined by the director. Upon receipt of all the evidence, the director will review the entire record and enter a new decision.

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 United

States Citizenship and Immigration Services (USCIS). 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.