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U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N. W.
Washington, DC 20536

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File: [REDACTED]
[LIN 02 239 50379]

Office: Nebraska Service Center Date:

NOV 13 2003

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 in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Cindy M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the matter will be remanded for further action.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.

On March 11, 2003, the director denied the application filed on July 11, 2002, after determining that the applicant had failed to establish that she was eligible for filing after the initial registration period from January 5, 1999, to August 20, 1999. The applicant, however, did not indicate on her Form I-821, Application for Temporary Protected Status, that she was filing her first application to register for TPS. Rather, she indicated that she was applying for annual re-registration and submitted copies of Employment Authorization Cards confirming she had filed previous Form I-821 applications in 1999 and 2000. The record does not contain any evidence reflecting the director's decisions on either of those applications.

The evidence contained in this record of proceeding is not sufficient to support the director's decision of denial. Therefore, the case will be remanded. The director shall review all records pertaining to this applicant and issue a new decision which shall be certified to the AAO for review. All files relating to this individual's TPS application shall also be included with the certification. The director may request any evidence deemed necessary to assist him 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 matter is remanded for further action.