



U.S. Citizenship
and Immigration
Services

MI



FILE:



Office: Nebraska Service Center

Date:

JUN 1 2004

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

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FOR PROTECTION OF PERSONAL INFORMATION
AND TO PREVENT THE DISCLOSURE OF INFORMATION
CONSIDERED TO BE CONFIDENTIAL OR PROPRIETARY

DISCUSSION: The applicant's Temporary Protected Status (TPS) was denied by the Director, Nebraska Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the appeal will be sustained.

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 director denied the application 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.

On appeal, the applicant states that she originally applied for TPS in 1999.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999.

There are two Forms I-821, Application for Temporary Protected Status, in the file. The first TPS application was properly filed on February 16, 1999. The applicant submitted photocopies of Employment Authorization Cards indicating that she applied for re-registration in 2000 and 2001.

Another Form I-821 in this file was received on August 5, 2002. This application was clearly marked as a re-registration by the applicant, but was subsequently changed to an initial filing. The location or disposition of the other two Forms I-821 filed in 2000 and 2001 cannot be determined from this record; however, a check of the record reveals that these are housed in separate files, LIN-00-209-50196 and LIN-01-220-52080.

On April 14, 2003, the director issued a denial for both Forms I-821 from 1999 and 2002, simultaneously, in one decision, citing late registration as the sole reason for denial.

The record, as constituted, clearly demonstrates that the applicant filed her first TPS application during the requisite period, but that it was not acted upon until 2002. It is noted that the 1999 application was initially accepted at another Service Center.

Therefore, the applicant has demonstrated eligibility. The appeal is sustained, and the application shall be approved.

An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The director's decision is withdrawn and the appeal is sustained.