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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: DEC 07 2004  
[SRC 03 194 53228]

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 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.

*Cindy N. Gomez*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

The applicant is stated to be 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 abandoned her application by failing to report her change of address, resulting in the request for evidence being returned as undeliverable.

If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen. 8 C.F.R. § 103.2(b)(15).

The record reveals that the applicant filed her initial TPS application on July 3, 2003. On September 11, 2003, the applicant was requested to submit additional evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit additional evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the applicant was requested to submit photo identification, such as a state driver's license or a national identity document from her country of origin. The record does not contain a response from the applicant; therefore, the director concluded that the applicant had abandoned her application and denied the application on October 27, 2003. The director noted that the applicant had not filed a change of address on Form AR-11.

The director advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen within 30 days. The applicant responded to the director's decision; however, the director erroneously accepted the applicant's response as an appeal instead of a motion to reopen and forwarded the file to the AAO. As the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Therefore, the case will be remanded and the director shall consider the applicant's response as a motion to reopen.

It is noted that the applicant's response did not contain any additional evidence related to her eligibility for late registration. On the Form I-765, Application for Employment Authorization, the applicant indicated both her manner of entry into the United States and her current immigration status as entry without inspection (EWI), while on the Form I-821, Application for Temporary Protected Status, the applicant indicated that she entered the United States without inspection, and listed her current immigration status as an "F-1," nonimmigrant student. The applicant, however, presented no evidence to substantiate that she had been granted any type of nonimmigrant status.

It is also noted that the evidence submitted by the applicant includes documentation that appears to have been altered. On the Dade Traffic School Programs certificate, the applicant's name also has been altered and her birth date is listed differently than on the remainder of her documentation. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in

support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). In addition, the applicant's birth certificate appears to have been altered and indicates that it was issued in Honduras on December 4, 2002. The applicant did not explain how this document was obtained in Honduras more than four years after her stated date of entry into the United States.

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 case is remanded to the director for further action consistent with the above and entry of a decision.