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**U.S. Citizenship
and Immigration
Services**



FILE:



Office: VERMONT SERVICE CENTER

Date: JUN 29 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

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

The applicant is a native and citizen of Honduras who indicated on her application that she entered the United States in September 1992. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, after determining that the applicant had abandoned her application by failing to respond to a request for evidence.

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 application for TPS on July 5, 2002. On December 5, 2002, the applicant was requested to submit evidence to establish her eligibility for filing after the initial registration period for Hondurans from January 5, 1999 through August 20, 1999. The applicant was granted 30 days to submit the requested evidence. In response to the notice, the applicant submitted evidence of her residence in the United States. However, she did not furnish any evidence to establish that she was eligible for late initial registration. The director concluded that the applicant had abandoned her application and issued a Notice of Denial on April 1, 2003.

As the applicant did submit a timely response to the December 5, 2002 Notice of Intent to Deny her application, it cannot be concluded that the applicant had abandoned her application for TPS. Therefore, the director's decision will be withdrawn and the case will be remanded for issuance of a new decision. The director may request any evidence deemed necessary to assist 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 director's decision is withdrawn. The case is remanded to the director for further action in accordance with the foregoing.