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FILE: [REDACTED]
[EAC 99 240 50120]
[WAC 05 071 72995]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: **DEC 06 20**

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Vermont Service Center (VSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC), and is currently before the Administrative Appeals Office (AAO) on appeal. The case will be remanded 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 record indicates that the applicant filed her TPS application during the initial registration period on August 9, 1999. On December 10, 1999, the applicant was requested to submit evidence to establish continuous physical presence in the United States from January 5, 1999, to the date of filing the application. The record does not contain a response from the applicant; therefore, the Director, VSC, concluded that the applicant had abandoned her application and denied the application on May 18, 2000. The Director, VSC, advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen within 30 days. The applicant did not file a motion to reopen. The Director, CSC, subsequently reissued and posted a new date of August 29, 2005, to the Vermont Service Center's request for evidence dated December 10, 1999, and the denial based on abandonment dated May 18, 2000.

On November 15, 2005, the applicant filed a motion to reopen the re-dated denial decision, and provided additional documentation in an attempt to establish continuous residence and continuous physical presence in the United States during the requisite period.

The director accepted the applicant's response as an appeal and forwarded the file to the AAO. However, 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.

The Director, CSC's July 23, 2005, denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, that decision will be 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.

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. The re-registration application is remanded for further action consistent with the director's decision on the initial application.