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FILE:



Office: CALIFORNIA SERVICE CENTER

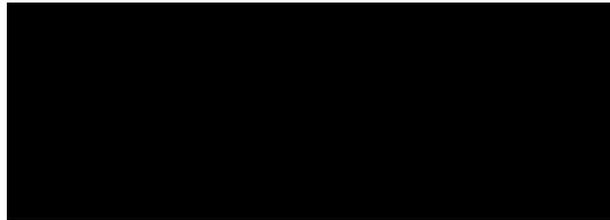
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[SRC 99 215 51837]

IN RE:

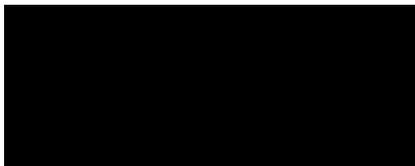
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.

Cinder N. Gomez
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and the matter is now before the Administrative Appeals Unit (AAO) on appeal. The matter will be remanded to the California Service Center 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 applicant initially filed a Form I-821, Application for Temporary Protected Status, with the California Service Center on April 28, 1999, under CIS receipt number WAC 99 158 52964. She filed a second Form I-821 with the Texas Service Center on July 1, 1999, under CIS receipt number SRC 99 215 51837.

Since the applicant had moved to Orlando, Florida, and was under the jurisdiction of the Texas Service Center when she filed her second Form I-821 with the Texas Service Center on July 1, 1999, the Director of the California Service Center administratively terminated the applicant's first Form I-821, filed under receipt number WAC 99 158 52964, on June 19, 2000.

On September 24, 1999, the Director of the Texas Service Center requested that the applicant submit additional evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In response, the applicant submitted hospital documents dated in June 1998.

On June 17, 2003, the Director of the Nebraska Service Center issued a notice informing the applicant of his intention to withdraw the applicant's Temporary Protected Status and deny her **application for re-registration** because the record contained no evidence that she had reapplied for the periods from July 6, 2000 to July 5, 2001, July 6, 2001 to July 5, 2002, and July 6, 2002 to July 5, 2003. It is noted that this request was mailed to the applicant's current address at that time, [REDACTED]

In response to the notice, the applicant stated in a letter dated July 8, 2003, that she had "re-applied" on July 18, 2000, and again in 2001, 2002, and 2003, but was "denied again." The applicant further states, "[o]n May 14, 2003, I went to the Immigration Office in Bloomington, MN, and they gave me a temporary employment authorization card so I could work but it expired on July 5, 2003." She submitted a photocopy of an Employment Authorization Card [valid from January 7, 2000 to July 5, 2000] issued by the Texas Service Center based on a pending TPS application; a photocopy of an Employment Authorization Card [valid from May 14, 2003 to July 5, 2003] issued by the Nebraska Service Center based on a pending TPS application; a photocopy of a Form I-765, Application for Employment Authorization, signed by the applicant on June 25, 2002; a photocopy of a Form I-765 signed by the applicant on March 29, 2001; a photocopy of a Form I-765 signed by the applicant on May 2, 2000; a photocopy of a Form I-765 signed by the applicant on July 18, 2000; a photocopy of a Form I-765 signed by the applicant on June 22, 1999; and, additional evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

The record contains the following Forms I-765:

1. a Form I-765 filed with the California Service Center on April 28, 1999, under CIS receipt number WAC 99 158 53596;

2. a Form I-765 filed with the Texas Service Center on July 1, 1999, under CIS receipt number SRC 99 215 51874; and,
3. a Form I-765 filed with the Nebraska Service Center on May 21, 2003, under CIS receipt number LIN 03 184 51264.

The Form I-765 listed in No. 1 above was administratively terminated by the Director of the California Service Center on June 19, 2000, as a duplicate filing. The Form I-765 listed in No. 2 above was approved by the Director of the Texas Service Center on January 6, 2000. The applicant has provided a photocopy of the Employment Authorization Card based on this application. The Form I-765 listed in No. 3 above was approved by the Director of the Nebraska Service Center on November 18, 2003. As stated above, all three applications were filed based on a pending TPS application.

On October 30, 2003, the Director of the Nebraska Service Center issued a notice requesting that the applicant provide additional evidence to establish entry into the United States prior to December 30, 1998, continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. Although the applicant had reported a change of address from Orlando, Florida, to Willmar, Minnesota, on May 2, 2000, this notice was erroneously mailed to the applicant's former address in Orlando, Florida, and returned to the Nebraska Service Center as undeliverable mail.

The Director of the Nebraska Service Center then denied the application initially filed with the Texas Service Center under receipt number SRC 99 215 51837 on March 22, 2004, stating that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time frames.

On appeal, the applicant states that she needs employment authorization, but she does not submit any additional evidence in support of her appeal.

The director erroneously requested that the applicant submit evidence to establish that she had re-registered for TPS, when in fact the applicant had never been granted TPS. Therefore, this finding made by the director will be withdrawn.

CIS records indicate that the applicant has filed the following Forms I-765 that are not contained in the record of proceeding: LIN 00 208 51085; LIN 01 154 52200; LIN 02 232 50716; and, SRC 02 032 50563. Additionally, CIS records indicate the applicant has filed a **third** Form I-821 with the Nebraska Service Center under CIS receipt number LIN 02 241 51025. The record indicates that this application was transferred to the Minneapolis [Bloomington], Minnesota, District Office, on December 2, 2002, but it does not appear to have been adjudicated.

Therefore, the matter will be remanded. The director shall review **all** CIS records pertaining to this applicant and all files relating to this individual's TPS application history shall be consolidated into the record of proceedings. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

It is noted that the record contains a Federal Bureau of Investigation (FBI) fingerprint results report indicating that the applicant has previously been deported from the United States on March 21, 1989, under record, [REDACTED]. The report also indicates that the applicant was arrested in Willmar, Minnesota, on October 6, 2000, under the name [REDACTED] and charged with "theft by shoplifting." The director shall provide the applicant with an opportunity to provide the final court disposition of this arrest.

It is further noted that the applicant filed a **fourth** TPS application with the California Service Center on November 18, 2004, under CIS receipt number WAC 05 049 70212, and indicated that she was seeking an extension of her temporary treatment benefits. The Director of the California Service Center denied that application on July 23, 2005, because the applicant's initial TPS application had been denied and she was not eligible for extension of her temporary treatment benefits. On August 23, 2005, the applicant filed an appeal from that denial decision, and the matter is now before the AAO on appeal. That application will be discussed in a separate decision.

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 matter is remanded for further action.