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U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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FILE:

[REDACTED]
[WAC 05 057 75368]

Office: CALIFORNIA SERVICE CENTER

Date: **SEP 06 2006**

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 California Service Center. 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, Texas Service Center. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO, and 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 applicant filed an initial application for TPS under receipt number SRC 02 216 53717. The director denied the initial application on March 5, 2003, because the applicant did not send all the evidence requested in response to two requests for evidence.

The applicant filed the current application, on November 26, 2004, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

The record reflects that in addition to the evidence outlined in the director's March 5, 2003 denial, including her marriage certificate, the applicant had asserted that she was eligible for late initial registration because she is the spouse of an alien currently eligible to be a TPS registrant and forwarded a copy of his Form I-766, Employment Authorization Card. Additionally, she had submitted additional evidence of continuous residence and continuous physical presence, albeit sparse, that should have been considered by the director when making her determination concerning her initial application.

It is noted that the applicant's Federal Bureau of Investigation fingerprint results report shows that she was in the United States on April 15, 1998, because she was arrested and her fingerprints were processed by the staff of the District Director of the Harlingen, Texas, office of CIS, (formerly, the Immigration and Naturalization Service) on that date.

The director's denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the application for re-registration is also withdrawn as it is dependent upon the adjudication of the initial application. 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 initial application is reopened, the director's decision is withdrawn, and the application is remanded for a new decision. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.