

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

M1



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

DEC 18 2007

[WAC 05 069 70726 as it relates to SRC 99 183 51143]

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The initial application was denied by the Director, Texas Service Center (TSC). A subsequent application was denied by the Director, California Service Center (CSC), and is currently before the Administrative Appeals Office on appeal. The case will be *sua sponte* reopened, the appeal will be sustained and the applications will be approved.

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 Form I-821, Application for Temporary Protected Status, under receipt number SRC 99 183 51143 which was denied by the TSC Director on November 26, 2002, after determining that the applicant had abandoned her application by failing to respond to a request for evidence. The applicant filed a motion to reopen the denial decision on November 5, 2003. On December 16, 2003, the TSC Director dismissed the motion because it was untimely filed.

The applicant filed the current Form I-821 under receipt number WAC 05 069 70726 on December 8, 2004, and indicated that she was again applying for TPS. The CSC Director denied the 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 the November 26, 2002 denial was made in error. On March 24, 2000, the applicant was requested to submit additional evidence establishing her date of entry into the United States prior to December 30, 1998 and her continuous residence in the United States since December 30, 1998. The applicant responded in June 2000, and submitted additional evidence including the following documentation: a money transfer receipt dated in 1997; a State of Florida Identification Card issued on September 15, 1998; an affidavit from her spouse attesting that the bills were in his name; and, and affidavit from an acquaintance attesting to the applicant's presence in the United States. With her motion to reopen, the applicant also submitted additional evidence of having filed the response to the request for evidence. It is noted that the TSC Director's letter indicated that the applicant had failed to respond to a request for additional evidence dated March 4, 2002. It is noted that the March 4, 2002 request for additional evidence requested the same information that had been provided by the applicant in June 2000 in response to the March 24, 2000 request for additional evidence.

With her subsequent application, the applicant also submitted additional evidence reflecting her continuous physical presence in the United States, including her Honduran passport issued on January 14, 1999, by the Consulate General, Miami, Florida.

The record of proceedings contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any grounds that would bar the applicant from receiving TPS. The applicant has submitted evidence of her nationality, continuous residence, and continuous physical presence in the United States, and has established that she has met the requirements described in 8 C.F.R. §§ 244.2(a), (b) and (c). Therefore, the TSC Director's decision shall be withdrawn and the initial application is approved.

The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being approved, the appeal from the denial of the re-registration is sustained and that application is also approved.

An alien applying for temporary protected status has the burden of proving that he or she meets the above requirements and is eligible under the provisions of section 244 of the Act. The applicant has met this burden.

**ORDER:** The denial of the initial application is withdrawn, the appeal for the re-registration application is sustained and both applications are approved.