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U.S. Citizenship
and Immigration
Services

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MAR 22 2007

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date:

[LIN 02 213 50006]

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:

[REDACTED]

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.

Cindy M. Gomez for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. An appeal was treated as a motion to reopen and was again denied by the director. The applicant appealed the director's decision on the motion, and this is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

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 director determined that the applicant failed to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999.

On appeal, counsel for the applicant states that he is eligible for late registration.

The record reveals that the applicant did file an initial application for TPS on May 6, 1999 under LIN 99 158 50022. That application was denied on June 27, 2000, because the director determined that the applicant had been convicted of two misdemeanors in the United States. On April 30, 2001, the AAO concurred with the director's decision and dismissed the appeal. A motion to reopen was dismissed by the AAO on April 2, 2003, because the motion was not filed within the 30 days required and the applicant failed to demonstrate that the delay was reasonable and was beyond his control. However, based on the applicant's actual criminal history, on May 16, 2003, the AAO withdrew its prior decision as well as the director's decision, and determined that the applicant had not been convicted of two or more misdemeanors. Consequently, the applicant was found eligible for TPS. As such, the TPS applications filed on June 4, 2002, and February 8, 2005, were re-registration applications and not late initial TPS applications.

Therefore, the director's decision will be withdrawn and the application will be approved.

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

ORDER: The appeal is sustained.