identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

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

U.S. Citizenship and Immigration Services

M1

[redacted]

FILE: [redacted] OFFICE: California Service Center DATE: OCT 03 2007
[WAC 05 075 72504 – as it relates to
EAC 99 210 51156 and EAC 03 068 54215]

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.

Cindy M. Toney for

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a 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 shows that the applicant filed an initial application for TPS during the initial registration period for Honduran nationals on June 18, 1999 [EAC 99 210 51156]. The VSC Director denied the initial application on the ground of abandonment on May 16, 2000, after the applicant failed to respond to a request for evidence that she had continuously resided in the United States since December 30, 1998, and that she had been continuously present in the United States from January 5, 1999, to the date of filing her TPS application.

The applicant filed a second TPS application with the VSC on October 26, 2002, which was more than three years after the close of the initial registration period for Honduran nationals on August 20, 1999. The VSC Director denied the application on August 11, 2003, on the ground that the applicant failed to establish that she was eligible for late initial registration. No appeal was filed.

On October 14, 2003, the applicant filed a motion to reconsider the May 2000 denial of the initial TPS application. The motion was dismissed by the VSC Director on February 6, 2004, on the ground that it was not filed within the 33-day period prescribed in the regulations.

The TPS application currently before the AAO on appeal [WAC 05 075 72505] was filed on December 14, 2004, and identified as an application for annual registration/re-registration. [1] It was denied on July 23, 2005, by the CSC Director on the ground that applicant's initial TPS application had been denied, thereby making the applicant ineligible to re-register for TPS under 8 C.F.R. § 244.17(a). The applicant filed a timely appeal and indicated that she would like to have her previously submitted evidence reviewed.

Based on the entire record of proceedings – including copies of a B1/B2 nonimmigrant visa and a Form I-94, Arrival/Departure Record, showing that the applicant was admitted to the United States on September 29, 1998, for a six-month stay, and assorted documentation demonstrating that she overstayed her visa and remained in the United States thereafter – the applicant has established her continuous physical presence in the United States since January 5, 1999, and her continuous residence in the United States since December 30, 1998, as required for TPS applicants from Honduras under 8 C.F.R. § 244.2(b) and (c). Since the grounds for denial of the initial TPS application have been overcome, the decision of the VSC Director will be withdrawn, and the application approved.

The director's denial of the subsequent application for re-registration of TPS 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 application will be sustained.

---

[1] The applicant also filed TPS re-registration applications at the VSC in 2000, 2001, and 2003, and at the CSC in 2006.

An alien applying for TPS 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. The applicant has met that burden.

ORDER: The initial application [EAC 99 210 51156] is reopened, *sua sponte*, the director's denial decision of May 16, 2000, is withdrawn, and the application is approved.

The appeal of the director's decision on July 23, 2005, denying the applicant's re-registration application [WAC 05 075 72504], is sustained. The application is approved.