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U.S. Citizenship
and Immigration
Services

[Redacted]

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FILE:

[Redacted]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: OCT 30 2007

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 California Service Center. Any further inquiry must be made to that office.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center (TSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC), and is currently before the Administrative Appeals Office on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, 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 record reveals that the applicant filed a TPS application during the initial registration period on August 20, 1999, under receipt number SRC 99 259 52016. The TSC director denied that application based on abandonment on October 21, 2003, because the applicant had failed to respond to a notice of intent to deny dated September 18, 2003, requesting that the applicant submit evidence to establish that she registered for TPS "annually in 2002 with the BCIS designated office having jurisdiction over your place of residence according to [8] C.F.R. 244.14." The applicant did not file a motion to reopen within 30 days from the date of the denial.

An alien who has been granted TPS must register annually with the district office or service center having jurisdiction over the alien's place of residence. 8 C.F.R. § 244.17(a). The director may withdraw the status of an alien granted TPS under section 244 of the Immigration and Nationality Act if the alien fails without good cause to register with the Attorney General annually within thirty (30) days before the end of each 12-month period after the granting of TPS. 8 C.F.R. § 244.14(a)(3).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 31, 2004, and indicated that she was re-registering for TPS. The CSC director denied the re-registration application on July 23, 2005, 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 of proceedings, however, reveals that the TSC director's decision of the initial application was in error. Specifically, the record reveals that the applicant has not previously been granted TPS; therefore, the applicant, in this case, does not fall within the provisions of 8 C.F.R. § 244.14 as maintained by the TSC director.

Therefore, the TSC director's denial of the initial application will be withdrawn, and the application will be remanded for a new decision. The CSC 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 remanded, that decision will be remanded to the CSC director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Salvadorans.

It is noted that the record contains insufficient evidence to establish the applicant's qualifying continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c).

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.