



U.S. Citizenship  
and Immigration  
Services

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FILE:



OFFICE: California Service Center

DATE: JAN 17 2008

[WAC 05 096 75319]

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:



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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The re-registration application was denied by the Director, California Service Center (CSC). The application 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 applicant filed her initial TPS application on July 20, 1999, under receipt number LIN 99 230 51223. The Director, Nebraska Service Center (NSC), denied the application on February 21, 2000, due to abandonment because the applicant failed to appear for her scheduled fingerprint appointment. On July 17, 2001, the applicant filed a motion to reopen. The NSC director granted the motion to reopen on October 15, 2001. The application was denied again on March 7, 2002, due to abandonment because the applicant failed to appear for a fingerprint appointment.

On December 9, 2004, counsel filed a subsequent motion to reopen. The NSC director granted the motion on August 17, 2005, and requested the applicant to submit a copy of her birth certificate or passport, a copy of her photo identification, as well as evidence to establish her qualifying continuous residence and continuous physical presence in the United States. The NSC director approved the application on December 5, 2005, as reflected by an approval stamp on that application.

The applicant filed the current Form I-821, Application for Temporary Protected Status, as a re-registration on January 4, 2005. The CSC director denied the re-registration application because the applicant's initial TPS application had not been granted and the applicant was not eligible to apply for re-registration for TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:

- (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
- (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
- (iii) The applicant is a parolee or has a pending request for reparole; or
- (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

A review of the record of proceedings reflects that the applicant's TPS status was approved on December 5, 2005. Given that the record fails to reflect any other ineligibility issues, the CSC director's decision to deny the current application 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. The applicant has met this burden.

**ORDER:** The CSC director's decision is withdrawn. The appeal is sustained and the application is approved.