

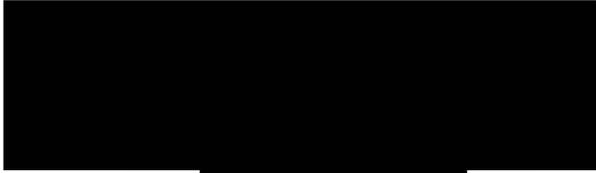
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
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**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: California Service Center

Date: **JAN 23 2008**

[WAC 05 097 83804, as it relates to WAC 99 12751128]

INRE:

Applicant:



APPLICAnON:

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. Wieman".

Robert P. Wieman, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, California Service Center. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office. The appeal will be sustained and the applications will be 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 reveals that the applicant filed a new initial TPS application on March 2, 1999, under CIS receipt number WAC 99 127 51128. The director denied that application on September 25, 2000, because the applicant failed to report for scheduled fingerprinting. The director, therefore, considered that application abandoned. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. It is noted that the director afforded the applicant appeal rights. The applicant, filed a late appeal, on February 21, 2003, which the director rejected as untimely, on August 14, 2003.

The applicant filed subsequent applications, including the current Form 1-821, Application for Temporary Protected Status, on January 5, 2005, under CIS receipt number WAC 05 097 83804, and indicated that she was re-registering for TPS. The director denied this application on September 21, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

However, the record 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 record of proceedings reveals that the fingerprints are cleared. Specifically, an FBI fingerprint check conducted in connection with the re-registration application shows no derogatory information. The record contains sufficient evidence to establish the applicant's identity and nationality, her continuous residence in the United States since December 30, 1998, and her continuous physical presence since January 5, 1999, to the date of filing her application. The record of proceedings contains a photo ID in the form of the applicant's Honduran national identification document which bears her fingerprint. Therefore, the director's decision will be withdrawn, and the initial application will be 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 will be sustained and that application will also be approved.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has sustained that burden.

ORDER: The application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration application are both approved. The appeal is sustained.