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U.S. Citizenship
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FILE:

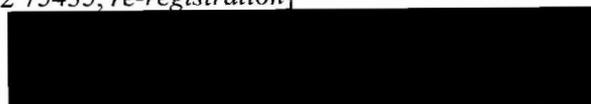
Office: VERMONT SERVICE CENTER

Date: OCT 30 2008

[EAC 08 059 51309, *appeal*]
[SRC 99 194 53349, *initial application*]
[WAC 05 112 75435, *re-registration*]

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

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). After considering an appeal filed by the applicant, the CSC Director reopened the case on motion and approved the applicant's re-registration application. The Director, Vermont Service Center (VSC), subsequently denied the initial application. The case is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO, 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 applicant filed an initial Form I-821, Application for TPS, during the initial registration period which was denied by the TSC Director on April 24, 2003, after the TSC Director determined the applicant had failed to respond to a Notice of Intent to Deny dated March 26, 2003. The applicant submitted a subsequent TPS application on January 20, 2005 under receipt number WAC 05 112 75435. The CSC Director denied that application on July 23, 2005, because the applicant's initial TPS application had been denied. The applicant filed an appeal to that decision on August 6, 2005 which was considered as a motion to reopen by the CSC Director who approved the applicant's TPS on September 15, 2005 and issued an employment authorization document reflecting "Category A12."

On November 20, 2007, the VSC Director issued a second denial of the applicant's initial I-821 following 8 C.F.R. § 244.9(a) which provides that applicants shall submit all documentation as requested in the instructions or requested by Citizenship and Immigration Services (CIS). If a withdrawal of TPS benefits was intended, the VSC Director should have followed the regulations at 8 C.F.R. § 244.14(a)(1) which provide for the withdrawal of TPS if the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible.

When an officer denies an application, "the officer shall explain in writing the specific reasons for denial." 8 C.F.R. § 103.3. When an officer denies an application, "the officer shall explain in writing the specific reasons for denial." 8 C.F.R. § 103.3. The VSC Director denied the initial application because the evidence submitted by the applicant is dated November 1999 and beyond, which in itself, is not a specific reason for denial because acceptable evidence such as affidavits and employment letters could be dated after the qualifying continuous residency and contemporaneous physical presence periods. Also, it appears that the applicant's Texas identification card expiring December 29, 2005, was issued to her on December 31, 1998.

The approval of the re-registration application will be withdrawn; the application will be remanded for a new decision. The director's denial or approval of the application(s) for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, the current decision will also be remanded to the director for further review pursuant to the new decision on the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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

ORDER: The initial application is reopened, the director's decision is withdrawn and the application is remanded. The re-registration application is remanded for further action consistent with the director's new decision on the initial application.