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ADMINISTRATIVE APPEALS OFFICE
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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: APR 13 2004

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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: [redacted]

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 N. Gomez for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the matter will be remanded for further action.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 director denied the application after determining that the applicant had failed to establish that she was eligible for filing after the initial registration period from January 5, 1999, to August 20, 1999.

On appeal, counsel for the applicant states that the applicant was granted TPS in 1999 and applied for renewal in 2001, but did not receive a response. Counsel submits additional documentation in support of the appeal.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999.

The record contains a copy of the applicant's Employment Authorization Card issued on November 10, 1999 with an expiration date of July 5, 2000, however, there is no evidence of the disposition of that application in the record. Nevertheless, it is clear that the applicant filed her application during the initial registration period and this issue must be addressed.

The case is remanded for further consideration and action. The director may request any evidence deemed necessary to assist him with the determination of the applicant's eligibility for TPS. 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 director's decision is withdrawn. The case is remanded to the director for further action in accordance with the foregoing and for entry of a new decision, which, if adverse to the applicant, is to be certified to the AAO for review.