U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N. W.
Washington, DC 20536

[redacted]

PUBLIC COPY

File: [redacted] Office: Texas Service Center Date: JAN 29 2004

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

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:
This is the decision 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 M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be remanded for further action.

The applicant is a native and citizen of Honduras who indicated on her application that she entered the United States on April 10, 1998, without a lawful admission or parole. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, for failure to respond to a request for evidence to establish her eligibility for TPS.

If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen. 8 C.F.R. § 103.2(b)(15).

The record reveals that the applicant filed her application on January 3, 2002. On March 19, 2002 the applicant was requested to submit additional evidence establishing her qualifying residence and physical presence in the United States. The applicant was also requested to submit proof of her eligibility for late registration. The record does not contain a response from the applicant; therefore, the director concluded that the applicant had abandoned her application and issued a Notice of Decision to Deny on August 17, 2002. On appeal, the applicant submits a Western Union money transfer dated October 31, 1997, and a copy of a Tennessee Identification card.

The applicant submitted an appeal; however, there is no appeal of the director's decision in the present matter and the submission should have been treated as a motion.

The matter will be remanded to the director for further action and the entry of a new decision which, if adverse, to the applicant, will be certified to the AAO for review.

ORDER: The matter is remanded for appropriate action consistent with the above discussion and entry of a new decision.