

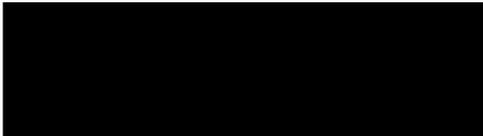
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FILE:  Office: CALIFORNIA SERVICE CENTER  
[WAC 05 096 88017, as it relates to SRC 99 224 54431]

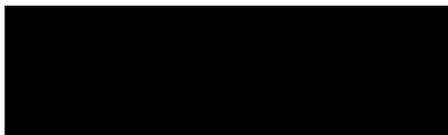
Date: NOV 15 2007

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 initial application was denied by the Director, Miami District Office. 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 appeal will be sustained.

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 applicant filed an initial TPS application on July 13, 1999, under receipt number SRC 99 224 54431. The district director denied the application on October 29, 2004, because the applicant failed to appear for her fingerprinting appointment.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 12, 2005, and indicated that she was re-registering for TPS. The district director denied the re-registration application on December 5, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant filed the current appeal on December 29, 2005.

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.

On appeal, counsel claims that the United States Citizenship and Immigration Services (USCIS) has erred and abused its discretion in denying TPS to the applicant.

The record of proceedings shows that the district director's decision was in error. Specifically, the record reveals that both the fingerprint notice related to her initial application as well as the decision denying the application were mailed to an incorrect address at 631 SW 42 Avenue, #215, Miami, Florida 33134. Both letters were returned by the U.S. Postal Service as undeliverable.

The record also shows that the applicant has been fingerprinted on three occasions, February 26, 2000, March 25, 2005 and March 30, 2006. On each occasion, the fingerprint search did not reveal any derogatory information which would preclude the applicant from receiving Temporary Protected Status.

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 in the United States since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with the latest extension granted until January 5, 2009, upon the applicant's re-registration during the requisite time period.

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 contains evidence, in the form of the biographic page of the applicant's Honduran passport, to establish the applicant's identity and nationality, and evidence, including Income Tax Returns, to establish her continuous residence in the United States since

December 30, 1998, and her continuous physical presence in the United States since January 5, 1999, to the date of filing her application on July 13, 1999. Therefore, the director's decision will be withdrawn, and the initial application will be approved.

Based on the foregoing, the applicant has established that she meets the requirements for TPS. There are no other known grounds of ineligibility; therefore, the director's decision will be withdrawn and the appeal will be sustained.

An alien applying for TPS 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 director's decision is withdrawn and the appeal is sustained.