



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF S-E-H-D-G-

DATE: AUG. 27, 2019

APPEAL OF NATIONAL BENEFITS CENTER DECISION

APPLICATION: FORM I-485, APPLICATION TO REGISTER PERMANENT RESIDENCE OR
ADJUST STATUS

The Applicant initially entered the United States without inspection and admission in August 1990, was granted Temporary Protected Status (TPS) in 2003, and has maintained TPS ever since. She was granted an advance parole document and was subsequently paroled into the United States in 2011 after a trip abroad. U.S. Citizenship and Immigration Services (USCIS) approved a Form I-130, Petition for Alien Relative, which resulted in the Applicant's classification under section 203(a)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(a)(3), as the married son or daughter of a U.S. citizen. When a visa became available, the Applicant filed a Form I-485, Application to Register Permanent Residence or Adjust Status pursuant to section 245 of the Act, 8 U.S.C. § 1255.

The Director of the National Benefits Center denied the application, finding that the Applicant had not continuously maintained lawful immigration status. Section 245(c)(2) of the Act. The matter is now before us on certification from the Director. *See* 8 C.F.R. § 103.4(a)(1).

On certification, the Applicant submits a brief as well as one from amicus curiae.¹ The Applicant asserts that because she was granted TPS under section 244 of the Act, 8 U.S.C. § 1254a, she has continuously maintained lawful immigration status.

As the Director noted in his decision, from the time the Applicant entered the United States in August 1990 until she was granted TPS in December 2003, the Applicant was not in a lawful immigration status. While TPS recipients are considered as being in and maintaining lawful status as a nonimmigrant only during the period that TPS is in effect, a grant of TPS does not cure or otherwise impact any previous failure to maintain continuously a lawful status. USCIS Policy Memorandum, PM-602-0172, *Matter of H-G-G-*, Adopted Decision 2019-01 (AAO July 31, 2019). Consequently, the Applicant is subject to the bar to adjustment under section 245(c)(2) of the Act because she failed to maintain continuously a lawful status for the 13 years prior to her grant of TPS.

It is the Applicant's burden to establish her eligibility for adjustment of status under the family-based third preference visa classification. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball*

¹ We appreciate the thoughtful brief submitted by the American Immigration Council in this case.

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Cultural Ctr., 25 I&N Dec. 799, 806 (AAO 2012). Upon review, we affirm the decision of the Director and deny the adjustment application, as the Applicant has not met her burden.

ORDER: The adjustment application is denied.

Cite as *Matter of S-E-H-D-G-*, ID# 1314528 (AAO Aug. 27, 2019)