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FILE:



[SRC 03 203 54957]

Office: TEXAS SERVICE CENTER

Date:

NOV 09 2005

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:

Self-represented

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 M. Gomez

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 on appeal. The case will be remanded to the director 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 met the qualifications for late initial registration under the provisions of TPS.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The record reveals that the applicant did file an initial application for TPS during the initial registration period on March 25, 1999 (SRC 99 146 52115). That application was denied on May 20, 2002, based on abandonment, because the applicant had failed to respond to a request on January 29, 2002, to submit: (1) evidence to show that she had continuously resided in the United States since December 30, 1998; (2) documents to show that she had been continuously physically present from January 5, 1999, to the date of filing her application; and (3) the final court dispositions of any and all arrests, as the Federal Bureau of Investigation fingerprint results report shows that the applicant was arrested on September 18, 1999, in Houston, Texas, for theft. The director indicated that the notice to provide additional information (addressed to the applicant at [REDACTED] was returned to the Service Center as undeliverable on February 11, 2002. It is noted that the letter of denial dated May 20, 2002, (also addressed to [REDACTED] was also returned to the Service Center as undeliverable on June 3, 2002.

The applicant filed a subsequent Form I-821 application on July 14, 2003. The director determined that the applicant's initial application was previously denied; and that, therefore, the late initial filing requirements did not pertain to her. The director denied this second application on September 25, 2003.

On appeal, the applicant asserts that she never received the letter denying her initial application although she had submitted a notification of her new address. She requests reconsideration because she needs to work in order to provide for her children.

A review of the record of proceeding shows that the applicant filed a change of address (from [REDACTED] Houston, Texas, to [REDACTED] Houston, Texas) with the Houston district office on April 22, 2002, prior to the director's notice of denial. It is also noted that the applicant's subsequent Form I-765, Application for Employment Authorization, and Form I-821 re-registration, both reflecting the applicant's new address [REDACTED] were received at the Texas Service Center on June 27, 2001, prior to the director's request for evidence dated January 29, 2002, and the director's notice of denial dated May 20, 2002. Therefore, the director's finding that the applicant abandoned her application will be withdrawn.

The case will be remanded so that the director may reopen the applicant's initial TPS application and accord the applicant an opportunity to submit arrest reports and the court's final dispositions of all of her arrests, including additional evidence to establish the applicant's qualifying continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c). The director may request any additional evidence that she considers pertinent. Similarly, the applicant may provide additional evidence within a reasonable period of time to be determined

by the director. Upon receipt of all the evidence, the director will review the entire record and enter a new decision.

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 case is remanded to the director for further action consistent with the above and entry of a decision.