



U.S. Citizenship  
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FILE: [REDACTED]  
[LIN 03 150 50197]

Office: NEBRASKA SERVICE CENTER

Date: NOV 23 2005

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

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. Lomeny*  
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 case will be remanded for further consideration and 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 this application after determining that the applicant had failed to establish her eligibility for late initial registration. The director noted that although the applicant had been initially approved for TPS benefits, she subsequently failed to apply for re-registration.

On appeal, the applicant states that she has lived in the United States since she was ten years old and considers herself an American. She requests a hearing, or oral argument, in order to present her case.

The record reveals that the applicant filed her initial TPS application on July 30, 1999. On May 18, 2000, the applicant was issued a TPS approval notice, under LIN 99 215 50063.

The record includes a letter dated January 21, 2003, from the applicant, in which she stated that she had applied for TPS in June 1999, and inquired as to the current status of her case. In response, the service center director sent a form letter dated March 12, 2003, stating that on September 6, 1999, an employment authorization document (EAD) had been mailed to her address that was listed on her records. The director further indicated that the EAD had been returned as undeliverable and was destroyed on March 23, 2000. The director indicated that the applicant would have to reapply with a new fee and supporting documentation.

Subsequently, on April 2, 2003, the applicant submitted this TPS application under LIN 03 150 50197. On May 27, 2003, the applicant was requested to submit additional evidence to establish her eligibility for late registration, as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her qualifying continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. In addition, the applicant was requested to submit the fee for the required fingerprinting. The applicant, in response, provided: the Form I-797A, Receipt Notice, reflecting approval of her Form I-821, Application for Temporary Protected Status, on May 18, 2000; the Form I-797A, for her 1999 application for employment authorization; transcripts and records from the School District of Kansas City, Missouri, dated between 1994 and 2001; and, medical and immunization records bearing dates between the years of 1994 and 2001. The record also contains additional evidence submitted with the Form I-821, relating to her identity, nationality, her continuous residence, and her continuous physical presence in the United States.

The director determined that the applicant had failed to establish her eligibility for late registration, and therefore denied this application on June 30, 2003. The director's decision noted that the applicant had submitted sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the requisite dates. The denial decision also discussed that this application had been treated as a request for late initial registration because the applicant had failed to re-register for TPS for the periods falling between July 6, 2000, through July 5, 2003.

Pursuant to 8 C.F.R. § 244.14(a)(1), the director may withdraw the status of an alien granted TPS at any time if the alien was not in fact eligible at the time such status was granted, or at any time the alien thereafter becomes ineligible for such status. The director may also withdraw TPS for the applicant's failure to maintain continuous physical presence, and for failure without good cause [emphasis supplied] to register annually within 30 days before the end of each 12-month period after the granting of TPS. 8 C.F.R. § 244.14(a)(2) and (3).

Under the provisions of 8 C.F.R. § 244.14(b), withdrawal of an alien's TPS status shall be in writing and served by personal service. Further, if the ground for withdrawing TPS is due to § 244.14(a)(3), the alien shall have 30 days in which to show good cause for failure to register. If the alien fails to respond within 30 days, under this provision, TPS shall be withdrawn without further notice.

The evidence contained in this record of proceeding does not support the director's decision of denial in this case. The current record of proceedings contains only the applicant's most recent application for re-registration, filed on April 2, 2003. Her initial application filed in 1999 is not contained in this record of proceeding. If TPS is to be withdrawn, the applicant must be notified in writing and provided 30 days in which to offer an explanation for her failure to re-register during the required periods.

Therefore, the director's decision will be withdrawn and the case will be remanded. The director shall review all records pertaining to this applicant and issue a new decision. All files relating to this individual's TPS application shall also be reviewed. 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 matter is remanded for further action.