



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



M1

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: SEP 06 2006
[WAC 05 064 73058]
[SRC 99 225 51129]

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 M. Gomez
for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 record reveals that the applicant filed a TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 99 225 51129. The director denied that application based on abandonment on November 19, 2002, because the applicant had failed to respond to a request to submit evidence to establish her qualifying continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The director also denied the applicant's motion to reopen [filed on September 30, 2004] on February 3, 2005, because the motion was untimely filed.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 3, 2004, and indicated that she was re-registering for TPS.

The director denied the re-registration application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts that she is eligible for re-registration, and that an error had been made in denying her initial application.

As provided in 8 C.F.R. § 244.10(c), the decision of the director to deny TPS shall be in writing served in person or by mail to the alien's most recent address provided to the Service and shall state the reason(s) for the denial, and the alien shall be given written notice of his or her right to appeal a decision denying TPS.

A review of the record of proceeding indicates that the director's Notice of Intent to Deny dated September 5, 2002, and the Notice of Decision denial for abandonment dated November 19, 2002, were both mailed to [REDACTED] CIS records, however, indicate that a change of address to California was received and was made on March 2, 2000. Additionally, it is noted in the record that prior to the director's Notice of Intent to Deny and Notice of Decision, the applicant submitted additional correspondence, including Forms I-821 and I-765, listing her address as [REDACTED]. It is further noted that correspondence addressed to the applicant from the California Service Center listed the applicant's address in Hollywood, California.

It also is noted that the applicant was issued two Employment Authorization Documents with "A12" category from November 21, 2001 to July 5, 2005, and July 6, 2002 to July 5, 2003, in error.

Therefore, the director's decision to deny the applicant's initial application will be withdrawn, and the case will be remanded to the director for further action. The director may request any evidence deemed necessary to assist 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 case is remanded for appropriate action consistent with the above discussion and entry of a new decision.