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U.S. Citizenship  
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[REDACTED]

FILE:

[REDACTED]  
[WAC 0507571261]

OFFICE: California Service Center

DATE:

JAN 19 2008

INRE:

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:

[REDACTED]

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.

for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** An initial application was denied by the Director, Nebraska Service Center (NSC). The re-registration application was then denied by the Director, California Service Center (CSC). The re-registration application is now before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO. The appeal will be sustained and the application approved.

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 because the applicant's TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, counsel asserts the applicant's eligibility for TPS and submits evidence in support of her claim.

The record reflects that the applicant filed her initial TPS application on June 5, 2000, under Citizenship and Immigration Services (CIS) receipt number LIN 00 233 50392. The Director, Nebraska Service Center (NSC), denied that application on January 24, 2001, because the applicant failed to establish her eligibility for TPS late registration.

On September 4, 2001, the applicant filed a subsequent TPS application under CIS receipt number LIN 01 273 51915. The Director, Nebraska Service Center, denied that application on February 27, 2002, because the applicant failed to establish her eligibility for TPS late registration. On April 5, 2002, the applicant, through counsel, filed an appeal which was dismissed by the NSC director on February 28, 2003.

On August 5, 2002, the applicant filed a third TPS application under CIS receipt number LIN 02 256 50442. The Director, Bloomington, Minnesota, on May 15, 2003, denied this application because the applicant failed to establish her eligibility for TPS late registration.

The applicant filed the current Form I-821, Application for Temporary Protected Status, as a re-registration on December 14, 2004. The CSC director denied this application because the applicant's prior TPS application was denied and the applicant was not eligible to apply for re-registration for TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and

- (f) (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
- (2) During any subsequent extension of such designation if at the time of the initial registration period:
  - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
  - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
  - (iii) The applicant is a parolee or has a pending request for reparole; or
  - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

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 states that the applicant should not be denied TPS because she was previously granted TPS by an immigration judge during her removal proceedings at Bloomington, Minnesota. Counsel also provides a copy of the order from the immigration judge dated June 16, 2003, indicating that the applicant was granted TPS.

Along with her initial TPS application, the applicant provided a copy of the Employment Authorization Document (EAD) of her father, A review of the record of proceedings reveals that the applicant's father was granted TPS on October 19, 1999; therefore, he is an eligible TPS registrant. The applicant has provided evidence that she has met one of the criteria for TPS late registration. Further, given that the record fails to reflect any other ineligibility issues, the director's decision will be withdrawn and the initial application will be approved.

The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being approved, the appeal from the denial of the re-registration will be sustained and that application will also be approved.

**ORDER:** The application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration application are both approved.