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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

Office: VERMONT SERVICE CENTER

Date: OCT 02 2008

[WAC 05 222 50847, appeal]

[LIN 03 218 50648 as it relates to WAC 05 102 75279]

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 Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for re-registration was denied by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The application for re-registration will be remanded for further action.

The applicant is a native and citizen of Nicaragua who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The applicant filed his first Form I-821, Application for Temporary Protected Status, under receipt number LIN 00 235 50910. The Director, Nebraska Service Center (NSC), denied that application on May 8, 2001, after determining that the applicant had abandoned his application by failing to respond to a request for evidence. A second Form I-821 was filed under receipt number LIN 01 225 53027. The NSC Director denied that application on March 4, 2002, after determining the applicant had again failed to respond to a request for evidence. A third Form I-821 was filed under receipt number LIN 03 218 50648 that was approved by the NSC Director on September 30, 2003. The applicant filed a fourth Form I-821 under receipt number WAC 05 102 75279, and indicated that he was re-registering for TPS. The CSC Director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. However, the record of proceedings reveals that the CSC Director's decision was in error because the applicant's third Form I-821 had been approved on September 30, 2003.

On appeal, the applicant asserts his eligibility for TPS.

It is noted that the record shows that the applicant has consistently claimed on his Forms I-821 that he entered the United States in July, 1998. However, when the applicant's mother, [REDACTED], filed her initial Form I-821 under receipt number LIN 99 107 53212 on January 29, 1999, she stated that her son was residing in Managua, Nicaragua.

As the CSC Director's denial of the application for re-registration or renewal is dependent upon the adjudication of the application under receipt number LIN 03 218 50648, the denial of the fourth Form I-821 is withdrawn and shall be re-adjudicated after a review of the approval of the third I-821.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited above and is otherwise eligible under the provisions of section 244 of the Act.

ORDER: The re-registration application is remanded for further action consistent with the Vermont Service Center Director's review of the NSC's approval of the previous application.