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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

M,

[REDACTED]

DATE: Office: VERMONT SERVICE CENTER FILE: [REDACTED]

JUL 27 2011

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:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). A motion to reopen and reconsider was filed that was dismissed by the AAO. The matter is again before the AAO on a motion to reopen and motion to reconsider. The motion will be granted. The previous decisions of the AAO will be withdrawn. The case will be remanded for further action.

The applicant is a 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 failed to establish that she was eligible for late registration, and because she failed to establish she had continuously resided in the United States since December 30, 1998, and had been continuously physically present in the United States since January 5, 1999.

The AAO, in dismissing the appeal, on October 1, 2010, withdrew the director's findings regarding the applicant's failure to establish continuous residence and continuous physical presence during the requisite periods, but upheld the director's other finding that the applicant was not eligible for late registration. The AAO dismissed the initial motion on January 6, 2011, as the late registration issue on which the underlying decision was based had not been overcome on motion.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

A motion to reconsider must state the reason for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy ... [and] must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

On motion, counsel asserts that the applicant continued to attempt to register TPS applications in 2001, 2002, and 2003, but she never received any notices regarding these applications. Counsel asserts, "[a]s a result, she was never informed that she had an opportunity to prove she was eligible for TPS as a late registrant."

In a recent decision, the Board of Immigration Appeals (BIA) held that the TPS regulations require that a late registrant be a "child" only "at the time of the initial registration period," not at the time when the application for late initial registration is filed." The BIA further held that the regulation at 8 C.F.R. § 244.2(g) does not apply to a child who seeks late initial registration for TPS benefits. See *Matter of N-C-M-*, 25 I&N Dec. 535 (BIA 2011).

In the instant case, during the initial registration period, the applicant was a child and her parent was a TPS registrant. In view of the BIA's recent decision, the applicant has established late registration eligibility. Therefore, the findings of the director and the AAO that the applicant had failed to

establish eligibility for late registration will be withdrawn. The validity period of the applicant's fingerprint check, however, has expired.

Accordingly, the case will be remanded for the purpose of sending the applicant a fingerprint notification form, and affording her the opportunity to comply with its requirements. Following completion of this requirement, the director will render a new decision. Should the decision be adverse, the director must give written notice setting forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i), and the applicant shall be permitted to file an appeal without fee.

ORDER: The decisions of the Director, Vermont Service Center, dated April 9, 2010, and of the AAO dated October 1, 2010 and January 6, 2011, are withdrawn. The motion is granted and the case is remanded for further action by the director.