



U.S. Citizenship  
and Immigration  
Services

AA1



FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: 4/11/08

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center. The application is now before the Administrative Appeals Office on appeal. The director's decision will be withdrawn and the matter will be remanded for further action.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 director determined that the applicant had "an arrest, conviction, or confinement." The director, therefore, denied the application.

The appeal was filed by a representative; however, the representative has not submitted a properly filed Form G-28, Notice of Entry of Appearance as Attorney or Representative. Therefore, the decision will be furnished only to the applicant.

On appeal, the applicant asserts that he has never been arrested.

The reason cited in the decision is at variance with the basis for that information cited in the notice of intent to deny. Specifically, the applicant was informed in the notice of intent that the application would be denied if he failed to establish his eligibility for late registration. However, in the director's decision, he states that the application is being denied because the applicant failed to provide all arrest records and the final court disposition for an arrest indicated by the director.

It is noted that there is nothing in the record to indicate that the applicant had actually been arrested, convicted or confined for a crime. It also is noted that the only copy of the director's decision in the record is the copy that the applicant apparently furnished on appeal.

The evidence contained in the record is not sufficient to support the director's decision of denial. Therefore, the case will be remanded. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS, including evidence of eligibility for late registration and continuous physical presence and residence.

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 application is remanded for further action.