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U.S. Citizenship  
and Immigration  
Services



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MAY 02 2005

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE:  
[WAC 99 120 52103]

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, California Service Center. The director subsequently dismissed a motion to reopen the case. The case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant claims to be 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.

On December 18, 2001, the director denied the application due to abandonment after determining that the applicant had abandoned her application by failing to respond to a request for evidence. The director erroneously informed the applicant that she could file an appeal with the AAO within 33 days of the date of issuance of the Notice of Decision.

On October 9, 2003, the applicant filed a motion to reopen the case. The applicant stated that she never received the Notice of Intent to Deny dated April 10, 2001.

On November 17, 2003, the director reopened the matter and issued a Notice of Intent to Deny requesting a certified copy of the final court disposition of the applicant's arrest on March 19, 1999, in Norwalk, California, on the charge of driving under the influence of alcohol. She was also requested to provide the dispositions of any additional arrests not listed in the notice.

On January 14, 2004, the applicant was requested to provide a certified copy of the final court disposition of her arrest in Norwalk, California, on December 15, 2000, on the charge of driving under the influence of alcohol.

On February 12, 2004, the applicant provided a certified copy of the final court dispositions of both of her arrests.

On March 2, 2004, the director denied the application because he found that the applicant had been convicted of two or more misdemeanor offenses.

The applicant filed an appeal on April 5, 2004. On appeal, the applicant states that she is in the process of having the first conviction dismissed. She further states that she will file a brief within 30 days of the filing of the appeal.

There is no appeal from a denial due to abandonment. 8 C.F.R. 103.2(b)(15).

A field office decision made as a result of a motion may be appealed to the AAO only if the original decision was appealable to the AAO. 8 C.F.R. 103.5(a)(6).

In this case, the director denied the original application due to abandonment. Since the original decision was not appealable to the AAO, the AAO has no jurisdiction to consider the current appeal from the director's subsequent denial. Therefore, the appeal must be rejected.

It is noted that the applicant is ineligible for TPS because she has been convicted of two or more misdemeanors. 8 C.F.R. § 244.4(a). There is no waiver for this ground of inadmissibility. 8 C.F.R. § 244.3(c).

**ORDER:** The appeal is rejected.