



U.S. Citizenship
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Services

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JUL 25 2006

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE:
[WAC 99 139 50336]

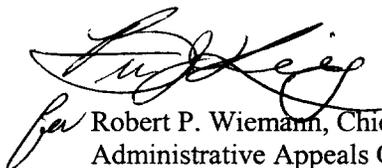
IN RE: Applicant: [REDACTED]

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further action.

The applicant claims to be a native and citizen of Honduras. On October 28, 2000, the applicant was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

Based on the Federal Bureau of Investigation (FBI) fingerprint results report indicating that the applicant (name used: [REDACTED]) was arrested for driving under the influence of alcohol/drugs on June 21, 2002, in Los Angeles, California, the applicant was requested on March 31, 2005, to submit a certified copy of the final court disposition for any and all arrests in the United States, including his arrest listed on the FBI report, from the courts (not the police station) where the hearings took place. The applicant, in response, furnished a letter from the Los Angeles County Superior Court, dated April 11, 2005, indicating that there was no record of any Long Beach and San Pedro action under the name of Noe N. Ponce. Because the applicant failed to submit the final court disposition of this arrest, the director denied the application on June 27, 2005.

The applicant appealed the director's denial decision on July 20, 2005, and submits a letter from the Los Angeles Superior Court, dated July 5, 2005, indicating that court record was examined "by name only," and no record was found in the Los Angeles County Superior Court under the name [REDACTED]. In an undated Notice of Intent to Withdraw, the director indicated that USCIS is reopening the current application, pursuant to 8 C.F.R. § 103.5(a)(5)(ii), and proposed to withdraw the favorable decision approving the TPS application. The applicant was given until July 31, 2005, to submit the final court disposition of his arrest. The director erroneously stated on the Notice of Intent to Withdraw that "[T]he applicant did not submit the final court disposition for the arrest listed above....Therefore, the application is denied." The applicant responded to this Notice of Intent by submitting a copy of the April 11, 2005, letter from the Los Angeles County Superior Court. The response was mailed to the Service Center and was postmarked July 7, 2005.

The record of proceeding does not contain evidence that the director issued a decision to withdraw the applicant's TPS status subsequent to the undated Notice of Intent to Withdraw. Therefore, the case will be remanded to the director to issue a new decision.

It is noted that although the record of proceeding contains a Honduran birth certificate and English translation, the certificate was not accompanied by a photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). The FBI report indicates that the applicant was born in Belize and that he is a citizen of Belize.

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 case is remanded to the director for further action consistent with the above.