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U.S. Citizenship  
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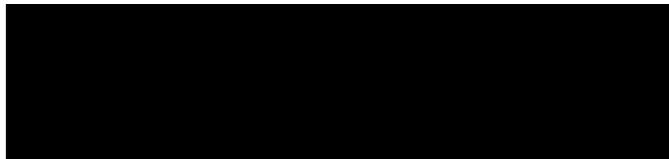


FILE: [REDACTED]  
[WAC 05 105 71446]

Office: CALIFORNIA SERVICE CENTER

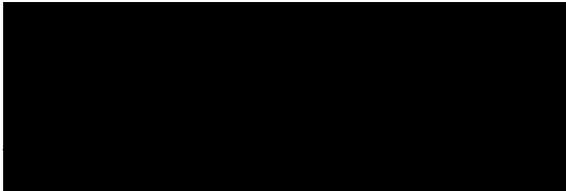
Date: MAY 08 2006

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:



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.

*Cindy M. Gomez*  
Robert P. Wiemann, Chief for  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, (CSC), and is now before the Administrative Appeals Office on appeal. The previously filed TPS application will be reexamined *sua sponte*. The case will be remanded.

The record reveals that the applicant filed a Form I-821, Application for Temporary Protected Status, under Citizenship and Immigration Services (CIS) receipt number SRC 99 197 52442. The Director, Texas Service Center, (TSC), denied that application on January 27, 2004, because the applicant had abandoned her application by failing to appear for fingerprinting.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 21, 2005, and indicated that she was re-registering for TPS.

The 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.

In this case, the applicant has not previously been granted TPS because she had not appeared for fingerprinting. However, the record reflects that her fingerprints were taken and processed by Citizenship and Immigration Services on March 12, 2005, and forwarded to the Federal Bureau of Investigation (FBI). Additionally, the record contains the applicant's FBI fingerprint results report that shows that on September 10, 2005, she was arrested by the Border Patrol in Sierra Blanca, Texas, and charged with "Command Authority of Combatant Commanders."

This application will no longer be considered abandoned based on the applicant's failure to appear for fingerprinting. Therefore, a denial based upon that reason is no longer appropriate.

As noted above, the applicant has been charged with a crime. However, the final court disposition of this arrest is not included in the record of proceeding. The case is remanded, in part, so that the applicant may provide the director with the final court disposition of the charge of "Command Authority of Combatant Commanders."

In addition, although not addressed by the director, the applicant has provided insufficient evidence to establish that she is a national or citizen of Honduras. The applicant has provided a copy of her birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). The applicant shall be provided an opportunity to provide the director with this essential identity documentation. Therefore, the case is remanded to the director.

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

**ORDER:** The denials of the TPS applications are withdrawn and the case is remanded.