U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: SEP 0 1 2006
[WAC 05 152 76945]

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.

Cindy M. Gomez for

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was accepted for processing by the Director, Texas Service Center (TSC). A subsequent application for re-registration was denied by the Director, California Service Center (CSC) and is currently before the Administrative Appeals Office, (AAO), on appeal. The case will be reopened, *sua sponte*, by the Chief, AAO, and the case will be remanded for further consideration and 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 applicant filed an initial application for TPS under receipt number SRC 99 219 53103. The record of proceedings reveals that the CSC Director's decision was in error. Specifically, the record reveals that the TSC Director did not make a determination concerning the applicant's initial application, nor did the director send the applicant a request for additional evidence, although she did deny her request for employment authorization on November 1, 2002.

It is noted that the applicant's Federal Bureau of Investigation fingerprint results report shows the following arrests:

1. On October 25, 2003, the applicant was arrested by the Miami, Florida, Police Department, and charged with three counts of conducting business without a license.

2. On December 6, 2003, the applicant was arrested by the Miami, Florida, Police Department, and charged with "Alcoholic Beverage Violation."

3. On March 27, 2004, the applicant was arrested by the Miami, Florida, Police Department, and charged with "Alcoholic Beverages Establishment." She was also charged with two counts of "Alcoholic Beverage Violation."

4. On October 14, 2004, the applicant was arrested by the Miami, Florida, Police Department, and charged with one count of conducting business without a license, three counts of "Alcoholic Beverage Incidental Sale of Food" and one count of violating a municipal ordinance.

The final court dispositions of the above arrests are not included in the record of proceeding.

The CSC Director's denial of the application for re-registration is withdrawn as it is dependent upon the adjudication of the initial application that has yet to be decided. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

It is noted that the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The CSC Director's decision is withdrawn, and the application is remanded for a new decision. The re-registration application is remanded for further action consistent with the director's decision on the initial application.