

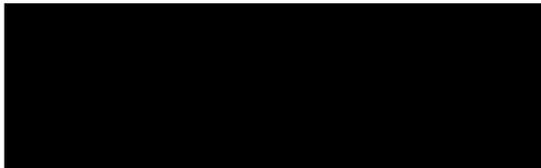
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U.S. Citizenship
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Services

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FILE:



Office: California Service Center

Date:

SEP 29 2006

[WAC 05 060 75355]

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:

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, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was denied by the Director, California Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the case will be remanded for further action.

The applicant is stated 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.

The record reveals that the applicant filed his initial TPS application on August 16, 1999, under CIS receipt number WAC 99 229 50796. The director denied that application on November 28, 2000, due to abandonment because the applicant failed to appear for his scheduled fingerprint appointment.

On July 2, 2002, the applicant filed a subsequent TPS application [LIN 02 234 51018] which was approved on December 30, 2002.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on November 29, 2004, and indicated that he was re-registering for TPS.

The director denied the instant re-registration application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts his eligibility for TPS.

A review of the record of proceedings reveals that the applicant's initial application for Temporary Protected Status was denied on November 28, 2000; however, the applicant's subsequent TPS application was approved on December 30, 2002.

Although not addressed by the director, the record of proceedings contains the Federal Bureau of Investigation report reflecting that the applicant was arrested by the Cedar Rapids Police Department on September 5, 2004, and charged with "OWI 1st Offense." Additionally, the record contains a copy of a complaint filed with the District Court of Iowa in Johnston County regarding his arrest on February 15, 2002, for public intoxication. CIS must address these arrests and/or convictions in any future decisions or proceedings.

Therefore, the case will be remanded. The director shall issue a new decision that, if adverse to the applicant, shall be certified to the AAO for review. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS. 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 matter is remanded for further action.