



U.S. Citizenship
and Immigration
Services

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JAN 03 2007

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[SRC 99 219 53416]
[WAC 05 105 78985]

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 initial application was denied by the Director, Texas Service Center. A subsequent application for re-registration was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO, and the case will be remanded for further consideration and action.

The applicant claims to be a 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 her initial TPS application with Citizenship and Immigration Services (CIS) during the initial registration period under receipt number SRC 99 219 53416. The applicant's Federal Bureau of Investigation (FBI) fingerprint results report revealed that the applicant was arrested in Houston, Texas, on April 22, 1992, under the name [REDACTED] and charged with possession of marijuana. On March 23, 2000, the applicant was requested to provide the final court disposition of this arrest. The applicant, in response, submitted a letter from Houston Police Department, Houston, Texas, indicating that she was arrested on April 22, 1992, and charged with theft, and that she was convicted of that charge on April 24, 1992, and sentenced to 10 days imprisonment in the County Jail. The Director of the Texas Service Center denied the application on May 27, 2000, because he found that the applicant had failed to submit requested court documentation relating to her criminal record.

However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the denial decision dated April 24, 2000, was addressed to another person, at another address, and referenced by a different receipt number.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 13, 2005, and indicated that she was re-registering for TPS or renewing her temporary treatment benefits.

The director denied the 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 or renewal of her temporary treatment benefits.

The denial of the initial application will be withdrawn; the application will be remanded for a new decision. The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, that decision will also be remanded to the director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Hondurans.

It is noted that the record of proceedings, as it is presently constituted, does not contain sufficient evidence to establish the applicant's identity and nationality as set forth at 8 C.F.R. § 244.9(a)(1). Nor does the record contain sufficient evidence to establish the applicant's qualifying continuous residence and continuous physical presence in the United States throughout the requisite periods as set forth at 8 C.F.R. § 244.2(b) and (c). It is further noted that the applicant has not provided a court document reflecting the final court disposition of her arrest on April 22, 1992, on the charge of possession of marijuana. Furthermore, the letter dated March 30, 2000, from the Houston Police Department, Houston, Texas, stating that the applicant was convicted on the charge of theft on April 22,

1992, cannot be accepted as an official court disposition document. Nevertheless, the director must issue a decision that relates to this applicant's initial application.

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 initial application is reopened, the 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 new decision on the initial application.