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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

JUN 27 2007

[WAC 05 104 81853 as it relates to EAC 99 126 50878]

IN RE:

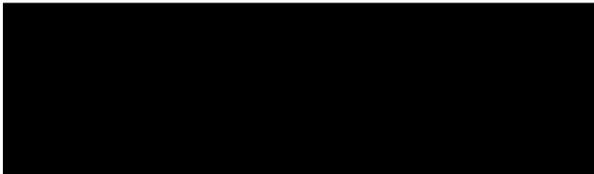
Applicant:



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 California Service Center. Any further inquiry must be made to that office.

Cindy M. Gomez
Robert P. Wiemann, Chief
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 case will be remanded.

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 record reveals that the applicant filed a Form I-821, Application for Temporary Protected Status, during the initial registration period under Citizenship and Immigration Services (CIS) receipt number EAC 99 126 50878. The District Director, New York, New York, withdrew the approval of that application on January 19, 2001, because although his application indicated that he had never been arrested, the Federal Bureau of Investigation (FBI) fingerprint results report indicated that the applicant had been arrested on May 3, 1993. The district director also determined that the applicant had failed to provide the disposition(s) of his arrests(s). However, the record does not reflect that the applicant's initial application had ever been initially adjudicated and either approved or denied.

The applicant filed TPS applications in 2001, 2002, 2003, and 2004; he filed the current application on January 12, 2005, and indicated that he 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.

The record reflects that no initial decision had been made on the applicant's application that was filed on February 5, 1999, before the District Director, New York, withdrew the approval of his application. It is noted that the CSC Director's September 2, 2005 denial indicates that a previous TPS application was denied on September 23, 2003. However, no record of this denial is contained in the record.

It is noted that, the applicant was apprehended near Brownsville, Texas, on or about September 12, 1985, by the U.S. Border Patrol, and deported to Honduras from Houston, Texas, on December 7, 1985 [under record A27 678 022].

It is also noted that the applicant was apprehended on May 3, 1993, at Middletown, New York, and charged with "Driving Under the Influence." The final court disposition of this arrest is not contained in the record.

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

ORDER: The denial of the initial application [EAC 99 126 50878], is withdrawn. The case is remanded to the director for the entry of a new initial eligibility determination.