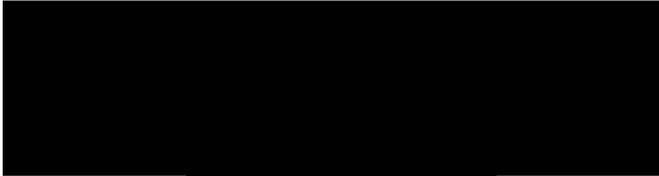




U.S. Citizenship
and Immigration
Services

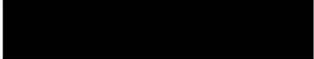
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC Copy



M

FILE:



Office: NEBRASKA SERVICE CENTER

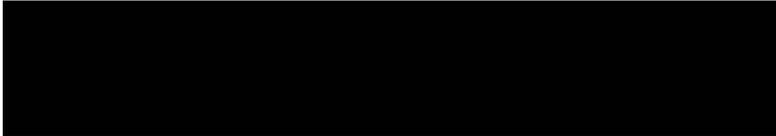
Date:

APR 08 2008

[LIN 02 251 52331]

INRE:

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center (NSC), and is now before the Administrative Appeals Office (AAO) 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 his initial application for TPS with the California Service Center (CSC) on May 19, 1999, under receipt number WAC 99 167 50362. On September 27, 2000, the CSC director approved the application.

The applicant filed the current application with the NSC on July 29, 2002. On November 26, 2002, the applicant was requested to submit evidence to establish his eligibility for TPS late registration, his nationality, as well as his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant did not respond to the director's request for evidence. Therefore, the NSC director denied the application on March 4, 2003, because the applicant failed to establish his eligibility for TPS late registration, as well as his qualifying continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. In addition, the director determined that the applicant's file was missing a photocopy of the applicant's birth certificate and photo identity.

The record of proceedings also shows that the applicant filed a subsequent TPS application with the CSC on December 3, 2004, under receipt number WAC 05 068 76495. That application was approved on August 25, 2005.

The applicant filed an appeal, which is now before the AAO.

The documentation contained in the record of proceedings is sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States. Furthermore, the record contains copies of the applicant's Honduran passport and birth certificate with an English translation.

A review of the record of proceedings reveals that a Federal Bureau of Investigation (FBI) report reflects the following:

- (1) On January 29, 1998, the applicant was arrested by the Lake County Sheriffs Office in Leadville, Colorado, and charged with "Domestic Violence," and;
- (2) On September 23, 2005, the applicant was arrested by the Eagle County Sheriffs Office in Eagle County, Colorado, and charged with "Assault - Third Degree."

The record contains the final court disposition from the Lake County Combined Courts of Leadville, Colorado, in regards to the charges stemming from the applicant's arrest detailed in No. 1 above. That court disposition reveals that the applicant pleaded guilty to "Harassment: Strikes, Shoves or Touches," Colorado Statute 18-9-111(1)(a), a 3rd degree misdemeanor; and "Domestic Violence," Colorado Statute 18-6-801, a misdemeanor offense.

In addition, the record contains a certified copy of a final court disposition from the County Court of Eagle County, Colorado, reflecting that the applicant pleaded guilty on November 3, 2005, to "Disorderly Conduct," Colorado Statute 87-104-16.

The case is remanded so that the director may request any necessary documentation and issue a new decision based on the findings as noted above.

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 case is remanded to the director for entry of a new decision.