

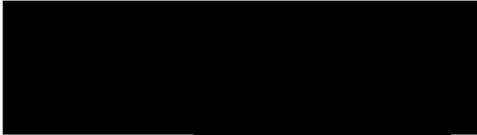
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U.S. Department of **Homeland Security**
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



FILE:

OFFICE: TEXAS SERVICE CENTER

DATE: JAN 24 2008

consolidated herein]
[SRC 02 050 56022]

INRE: Applicant:

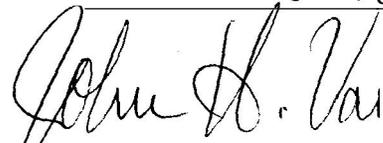


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.c. § 1254

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 office that originally decided your case. Any further inquiry must be made to that office.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center (TSC). It is now on appeal before the Administrative Appeals Office (AAO). The matter will be remanded to the director for further action.

The applicant is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.c. § 1254.

Citizenship and Immigration Services (CIS) records reveal that the applicant was apprehended on September 22, 2001, attempting to enter the United States at the Douglas, Arizona, port of entry by presenting documents relating to another person. At that time, the applicant signed a "Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act" affirming that she was a native and citizen of Honduras, that her parents were each natives and citizens of Honduras, and that her child was a citizen of Honduras. She also stated she had not lived or worked in the United States, but had been removed or deported "six or seven times." The applicant was expeditiously removed to Mexico that same day, but re-entered the United States shortly thereafter.

The applicant filed an initial Form I-821, Application for Temporary Protected Status [SRC 0205056022], on November 30, 2001. At the time of filing her application, the applicant stated that she was a native and citizen of El Salvador, had entered the United States on July 22, 2000, and had never been under immigration proceedings.

On January 24, 2003, the director issued a Notice of Intent to Deny (NOID) advising the applicant that before processing of her Form I-821 could continue, she needed to file and obtain approval of a Form I-601, Application for Waiver of Grounds of Excludability, due to the circumstances of her September 22, 2001 removal, described above. The applicant submitted the required Form I-601 on March 24, 2003 (SRC 03 119 54188). It remains adjudicated.

On October 21, 2004, the director denied the initial Form I-821 on the ground that the applicant had filed for TPS as a citizen of El Salvador, while CIS records indicated that she was a national of Honduras. The applicant filed an appeal from that decision on November 22, 2004.

On appeal, the applicant asserts that she is a citizen of El Salvador, not Honduras, and had never said she was from Honduras. She also asserts that she had applied for permission to depart the United States, but it had been denied. She states that she had to return to El Salvador because her brother was murdered and her mother was sick. In support of her appeal, the applicant submits photocopies of documentation including the biographic page from an El Salvadoran passport issued to her in Dallas Texas on June 1, 2004; an El Salvadoran personal identification card (*cedula*) issued to _____ on January 19, 1987; and, an abstract of an El Salvadoran birth certificate for _____ issued on October 2, 2000. It is noted that the applicant also had previously submitted a photocopy of a *cedula* issued to her in El Salvador on October 2, 2000 – after the date of

1 On the same day the director also denied an application for TPS re-registration, filed by the applicant on September 9, 2002 [SRC 02 270 54003], on the ground that the applicant's initial TPS application had been denied, making the applicant ineligible to re-register for TPS. If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. See 8 C.F.R. § 244.17.

entry into the United States (July 22,2000) claimed on her initial Form 1-821. On appeal, the applicant has not submitted any evidence relating to the specific date of her claimed departure from the United States, how she subsequently re-entered after her September 22,2001 removal, or her brother's murder and mother's illness.

Since the decision on the initial application for IPS hinges on the disposition of the Form 1-601, which has not yet been adjudicated, the matter will be remanded for the director to consider the applicant's Form 1-601 and determine whether a change is warranted in the decision rendered on the 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 case is remanded to the director for entry of a decision on the Form 1-601 application and, in the discretion of the director, the entry of a new decision on the initial application.