



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: SEP 06 2006

[SRC 99 222 54904]

[WAC 05 097 86486]

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.

for Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The applicant is 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 an initial application for TPS under receipt number SRC 99 222 54904. The director denied the initial application on March 30, 2002, after determining that the applicant failed to appear for a scheduled TPS appointment. However, the record of proceedings reveals that the director's decision was in error. Specifically, the record reveals that the interview notice and notice of intent to deny were sent to an outdated address. Consequently, the applicant never received the interview notice or the request for additional evidence.

Beyond the director's decision, it is noted that the record contains a Federal Bureau of Investigation Fingerprint Report. That report reveals the following offenses:

- (1) On November 28, 1993, the applicant was arrested by the Collier County Sheriff's Office for "DUI".
- (2) On June 13, 1994, the applicant was arrested by the Collier County Sheriff's Office for "DUI".
- (3) On June 12, 1998, the applicant was arrested by the Collier County Sheriff's Office for "DUI ALCOHOL OR DRUGS 2<sup>ND</sup>".

The record does not contain the final court dispositions for these arrests. CIS must address these arrests in any future proceedings.

The director's 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 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 Salvadorans.

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.