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U.S. Citizenship
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FILE:



[WAC 05 105 80729]

Office: CALIFORNIA SERVICE CENTER

Date: **SEP 06 2006**

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.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

for 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 stated to be 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, under Citizenship and Immigration Services (CIS) [receipt number SRC 99 215 50498.] The Director, Texas Service Center, (TSC), denied that application on May 21, 2003, for abandonment because the applicant had failed to respond to a request for information. The TSC director issued a second denial decision on November 4, 2003, finding the applicant had not provided the court disposition for her September 26, 1992, theft arrest by the Houston Police Department in Texas,

The applicant filed the current TPS application on January 13, 2005, and indicated that she was re-registering for TPS.

The CSC 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.

Prior to the May 21, 2003, denial of her initial TPS application by the TSC director, the applicant filed two Form(s) I-765, Application for Employment Authorization, providing updated address information. The director approved those applications on September 23, 2000 and on April 2, 2003. However, the TSC director erred by sending the May 21, 2003, denial notice to the address that the applicant listed on her application and not to the latest address that she had subsequently provided for the record. In addition, the TSC director sent the second denial notice, dated November 4, 2003, to an address that the applicant had not provided to CIS.

In her November 4, 2003 decision that was sent to an address that the applicant had not provided to CIS, the TSC director noted that the record of proceeding contains a Federal Bureau of Investigation (FBI), fingerprint results report indicating the applicant was arrested by the Houston Police Department in Texas, on September 26, 1992, and charged with theft. The director found the record does not contain the final court disposition for this charge. CIS must address this arrest and/or conviction in any further decisions or proceedings.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that she is a national or citizen of Honduras. The record does not contain any photo identification such as a passport or national identity document to establish her nationality. 8 C.F.R. § 244.2(a)(1). The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

In these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The denial of the initial TPS application is withdrawn. The case is remanded to the director for the entry of a new initial eligibility determination.