

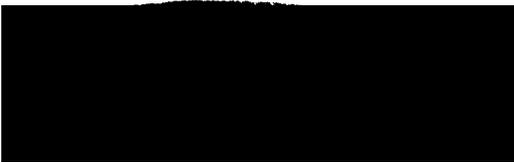
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**U.S. Citizenship
and Immigration
Services**

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prevent clearly unwarranted
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FILE:



Office: TEXAS SERVICE CENTER

Date: JUL 18 2005

[SRC 99 217 50018]

IN RE:

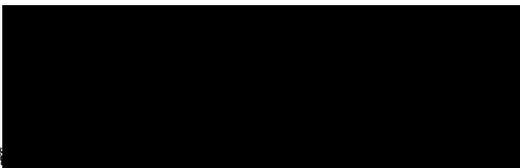
Applicant:



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

Robert P. Wiemann, Director
Administrative Appeals Office

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

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 director denied the application because the applicant failed to overcome the reasons the application was denied on December 29, 2000. (Actually December 6, 2000). In the December 6, 2000 decision, the director denied the application due to abandonment.

On appeal, counsel states the applicant has provided the director with copies of an arrest report and court disposition concerning the applicant's single conviction for the solicitation of prostitution, a misdemeanor, which resulted in an adjudication withheld, no jail time and a fine of \$136. Counsel further states the applicant has provided the director with a copy of his passport and driver's license verifying his identity. Counsel argues that the denial of the TPS application was unreasonable as the applicant never received notice of the decision "in 12/30/2000" or the notice requesting additional documents in "8/2000 as well."

The applicant filed a Form I-290B, Notice of Appeal to the Administrative Appeals Unit on June 15, 2004. The director erroneously accepted the applicant's response as an appeal instead of a motion to reopen and forwarded the file to the AAO. However, as the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Therefore, the case will be remanded and the director shall consider the applicant's response as a motion to reopen.

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 matter is remanded for further consideration and action.