



U.S. Citizenship  
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FILE: [REDACTED]  
[WAC 03 183 50914]

OFFICE: PHOENIX

DATE: SEP 26 2005

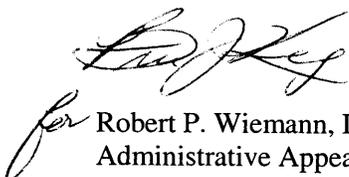
IN RE: Applicant: [REDACTED]

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, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Phoenix, Arizona, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action.

The applicant claims 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 shows that the applicant filed an initial application for TPS during the initial registration period on February 24, 1999. That application was denied on December 10, 2002, because the applicant had been convicted of two misdemeanors committed in the United States. The applicant did not file an appeal or a motion to reopen within 30 days from the date of the denial.

The applicant subsequently filed Form I-765, Application for Employment Authorization, and the underlying application for Temporary Protected Status on June 2, 2003. The district director denied this second application on December 29, 2003, because the applicant was not eligible for re-registration as she was not previously granted TPS.

The director erroneously advised the applicant that she could file an appeal from this decision within 30 days. Since there is no appeal from the district director's decision in the present matter, 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 case is remanded to the district director for further action consistent with the above and entry of a decision.