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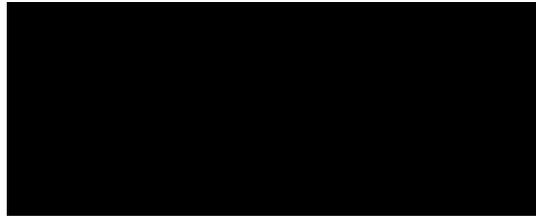


FILE: [REDACTED]
[SRC 99 180 51309]

Office: NEBRASKA SERVICE CENTER

Date: AUG 25 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.

Cindy N. Gomez
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

The applicant is a native and citizen of Honduras who is seeking Temporary Protected Status under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director approved the applicant's initial application for Temporary Protected Status (TPS) on March 8, 2001. The director subsequently withdrew the applicant's Temporary Protected Status on December 22, 2003, when it was determined that the applicant had failed to submit the required annual re-registration for the 2002 period. The current record of proceedings contains the applicant's re-registration applications filed on March 30, 2000 (CIS Receipt Number SRC 00 198 50908); May 4, 2001 (SRC 01 243 50164); and, June 30, 2003 (LIN 03 211 51580), but the record does not contain a Form I-765 filed for the 2002-2003 period.

On appeal, the applicant states, "[a]ttached is the last letter I received." The applicant submits a photocopy of a Notice of Decision dated March 5, 2003, denying the applicant's Form I-765, Application for Employment Authorization, because the applicant had been convicted of two or more misdemeanors. This notice relates to CIS Receipt Number LIN 02 209 52095.

The evidence contained in this file is not sufficient to support the director's denial decision of the Form I-821 or the Form I-765. The Notice of Denial dated March 5, 2003, states that the applicant has been denied employment authorization because he has been convicted of two misdemeanors. This application [LIN 02 209 52095] is not contained in the record. The Notice of Decision dated December 22, 2003, states that the applicant is ineligible for re-registration because the applicant failed to register for the 2002-2003 period. It appears that the applicant may have filed a re-registration application for the 2002 period, but that application is contained in a separate record of proceeding.

It is noted that the director stated in the Notice of Decision dated March 5, 2003, that the applicant pled guilty to "driving under the influence of alcohol" in the Miami Dade County Court, Miami, Florida, on February 23, 2000. The current record of proceedings reveals that the applicant was convicted of this charge on September 16, 1999, not on February 23, 2000, as stated by the director. The director further stated that the applicant pled guilty to "driving under the influence of alcohol" and "driving without a valid driver's license" in the King County Court, Seattle, Washington, on April 3, 2002. The current record of proceeding does not contain any information relating to the applicant's subsequent arrest or conviction in Seattle; it appears that the information relating to this offense is contained in the record relating to the applicant's Form I-765, CIS Receipt Number LIN 02 209 50295. If the record containing the denial decision dated March 5, 2003, relates to a re-registration application filed in 2002, the applicant's TPS may not be withdrawn for failure to re-register for the 2002 period. If the record confirms that the applicant has been convicted of two or more misdemeanors, his TPS must be withdrawn for this reason.

Therefore, the matter will be remanded. The director shall review *all* CIS records pertaining to this applicant, and *all files relating to this individual's TPS application history* shall be consolidated into the record of proceedings. If the record of proceeding, after it has been consolidated, confirms that the applicant has been convicted of two or more misdemeanors, he is ineligible for TPS for this reason and his Temporary Protected

Status must be withdrawn. Therefore, the matter is remanded for issuance of a new decision consistent with the foregoing.

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 director's decision is withdrawn. The matter is remanded for further action.