



U.S. Citizenship
and Immigration
Services

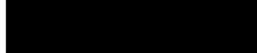
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: OCT 16 2006

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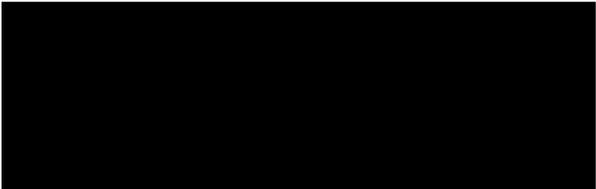
IN RE:

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 California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the District Director, Houston, Texas. 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, AAO, and the case will be remanded for further consideration and action.

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 applicant filed an initial application for TPS under receipt number SRC 99 224 50140. The district director denied the initial application on June 13, 1999, because the applicant had abandoned his application by failing to appear for fingerprinting.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 31, 2004, and indicated that he was re-registering for TPS.

The applicant has not previously been granted TPS because he had not appeared for fingerprinting. However, the record reveals that his fingerprint processing was completed on December 12, 2005, while this appeal was pending.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that he 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 his nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1).

The record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated July 25, 1995, indicating that the United States Border Patrol encountered and interviewed the applicant at the Harris County Sheriff's Office in Texas. The Form I-213 reflects that the applicant had been arrested on July 24, 1995, by the Houston Police Department in Texas, for driving while intoxicated. Additionally, the applicant's Federal Bureau of Investigation fingerprint results report shows that on April 27, 2002, he was arrested by the Conroe Police Department in Texas, for driving while intoxicated. However, the final court dispositions of these arrests are not included in the record of proceeding.

The district 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 is also withdrawn as it is dependent upon the adjudication of the initial application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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 district 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.