



U.S. Citizenship
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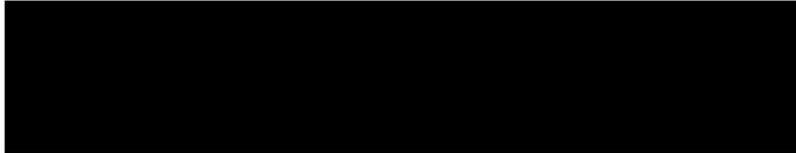
Office: VERMONT SERVICE CENTER

Date:

[EAC 99 249 50635]
[EAC 03 081 52563]
[EAC 03 195 50650]

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 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, reopened, and again denied by the Director, Vermont Service Center. The application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, and the application will be approved. 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 appeal will be sustained and the application will be approved.

The applicant is a 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 of proceedings shows that on July 1, 1999, the applicant filed his initial application for TPS with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS) under receipt number EAC 99 249 50635. The Director, Vermont Service Center, denied the TPS application on December 5, 2000, due to abandonment, because the applicant failed to respond to the director's request for evidence. The director reopened the case on motion and requested the applicant submit final court dispositions as a result of the Federal Bureau of Investigation fingerprint results report dated February 7, 2004. The report showed that the applicant had been arrested on January 4, 2004, in Union City, New Jersey, on charges of aggravated assault, resisting arrest, and disorderly conduct/improper behavior. The applicant responded to the director's request for final court dispositions on August 11, 2004. The director denied the TPS application on September 23, 2004, after determining that the applicant had only submitted a final court disposition stemming from one of the criminal charges.

On appeal, the applicant submits final court dispositions stemming from his arrests on January 4, 2004. The court dispositions show that on May 20, 2004, the applicant was found guilty in the Municipal Court of Union City, New Jersey, of resisting arrest, a misdemeanor. The record also shows that the disorderly conduct/improper behavior charge was dismissed on that day. The final court dispositions submitted by the applicant on appeal show that he has only been convicted of one misdemeanor, and does not reflect a criminal record that would bar him from receiving TPS. Therefore, the director's decision with respect to this issue will be withdrawn.

The applicant filed another application for TPS subsequent to the initial registration period under CIS receipt number EAC 03 081 52563. The Director, Vermont Service Center, denied that application on May 29, 2003, due to abandonment, because the applicant failed to respond to the request for evidence entailed in the Notice of Intent to Deny dated April 7, 2003.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on June 9, 2003, and indicated that he was re-registering for TPS.

The 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.

On appeal, the applicant states that he has completed his probation stemming from his criminal conviction on May 20, 2004, and wishes to be given an opportunity to continue to work legally in the United States.

Since the applicant has overcome the sole ground for the denial of his initial application for TPS, that decision has been withdrawn. The record of proceedings contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any other grounds that would bar the applicant from receiving TPS. Therefore, the initial application will be approved.

The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being approved, the appeal from the denial of the re-registration will be sustained and that application will also be approved.

ORDER: The application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration application are both approved.