



U.S. Citizenship
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **JAN 03 2007**
[WAC 03 266 53559]

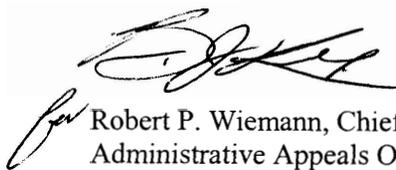
IN RE: Applicant: [REDACTED]

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be granted, and the AAO's previous decision dismissing the appeal will be affirmed.

The applicant is a native and citizen of El Salvador 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 on April 22, 2004, after determining that the applicant had abandoned his application by failing to respond to a request to submit the final court dispositions of all of her arrests, including her arrest on October 26, 1993, for shoplifting.

The AAO reviewed the record of proceeding and found that the applicant did respond to the director's request for evidence; therefore, the director's finding that the applicant abandoned her application was withdrawn by the AAO and a decision was made based on the evidence of record. The AAO noted that the applicant submitted a Court Record Certification from the Superior Court, Metropolitan Branch, Los Angeles, California, indicating that there was no record in that office making reference to [REDACTED] however, at the time of the applicant's arrest, she used the name [REDACTED] and that the applicant had failed to submit the court record under that name, or under any and all names used by the applicant. The AAO determined that the applicant had failed to provide information necessary for the adjudication of her application and dismissed the appeal on June 2, 2005.

On motion, the applicant submits the final court disposition of her arrest on October 26, 1993. The record shows that on November 15, 1993, in the Municipal Court of Hollywood Courthouse, Judicial District, County of Los Angeles, California, Case No. [REDACTED] the applicant, under the name of [REDACTED] was indicted for theft of property, 484(a) PC, a misdemeanor. On July 18, 2005, the court ordered the complaint amended by interlineation to add violation of 490.1 PC, petty theft, an infraction, as Count 3. The applicant was convicted of Count 3, and she was fined \$100. The remaining counts were dismissed.

Pursuant to California Penal Code § 490.1, petty theft, where the value of the money, labor, real or personal property taken is of a value which does not exceed \$50, may be charged as a misdemeanor or an infraction, at the discretion of the prosecutor, provided that the person charged with the offense had no other theft or theft-related conviction. A violation which is an infraction under this section is punishable by a fine not exceeding \$250.

The record, in this case, shows that the applicant was convicted of an infraction. As the applicant is not ineligible for TPS based on this conviction, pursuant to section 244(c)(2)(B)(i) of the Act, the initial finding of the director will, therefore, be withdrawn.

However, the AAO, in the denial decision, had addressed the fact that the initial TPS application was filed on September 16, 2003, after the initial registration period for El Salvadorans (from March 9, 2001 to September 9, 2002) had closed, and that the applicant had not established that she fell within the provisions described in 8 C.F.R. § 244.2(f)(2). On motion, the applicant neither addressed nor submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

Accordingly, the motion will be dismissed, and the previous decision of the AAO will be affirmed.

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 motion is dismissed. The decision of the AAO dated June 2, 2005, is affirmed.