

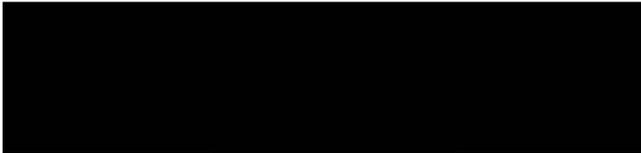
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u.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm 3000  
Washington, DC 20529

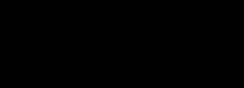


U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: PHILADELPHIA DISTRICT OFFICE

Date: APR 07 2008

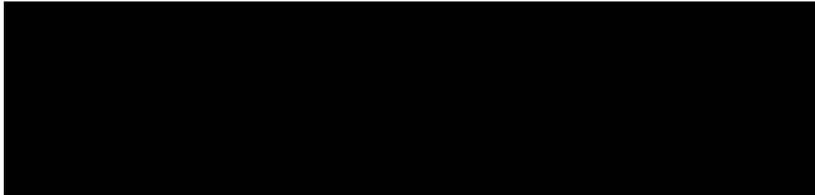
INRE:

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 office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Philadelphia, Pennsylvania, and 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 Liberia 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 reveals that the applicant filed her application on September 10, 2004. The director denied the application due to abandonment because the applicant failed to appear for her fingerprinting.

The director erroneously accepted the applicant's response as an appeal instead of a motion to reopen and forwarded the file to the AAO. As the director's decision was based on abandonment, 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.

It is also noted that the record contains a Federal Bureau of Investigation (FBI) report which reflects that on September 25, 1995, the applicant was arrested by the Newark, New Jersey Police Department and charged with: "001 Cnt 2C:12-1B Aggravated Assault", "001 Cnt 2C:39-4A Poss of Firearm Unlawful Purpose", and "001 Cnt 2C:39-5B Possess Handgun."

The instructions regarding the usage of the FBI report, and the provisions of 28 C.F.R. § 50.12, state, in part:

If the information on the record is used to disqualify an applicant, the official making the determination of suitability for licensing or employment shall provide the applicant the opportunity to complete, or challenge the accuracy of, the information contained in the FBI identification record. The deciding official should not deny the license or employment based on the information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so.

The record of proceedings contains a court disposition from the Municipal Court of the City of Newark, dated August 22, 2000. However, it is not possible from the information provided in the disposition to determine whether or not it relates to the applicant's past arrest on September 25, 1995, as noted above.

Furthermore, as of October 1, 2007, the Department of Homeland Security terminated the designation of TPS for nationals of Liberia (or aliens having no nationality who last habitually resided in Liberia).

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 director for further action consistent with the above and entry of a decision.