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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



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FILE:  Office: CALIFORNIA SERVICE CENTER

Date:

SEP 27 2010

IN RE: Applicant: 

APPLICATION: Application for Temporary Protected Status under Section 244 of the
Immigration and Nationality Act, 8 U.S.C. § 1254

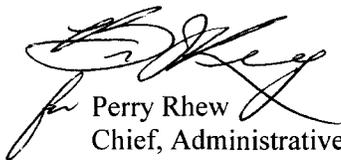
ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the California Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the California Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for Temporary Protected Status was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded to the director for further consideration and action.

The applicant claims to be a citizen of Haiti 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 because the applicant failed to submit the required Form I-601, Application for Waiver of Grounds of Inadmissibility, due to her inadmissibility under section 212(a)(6)(c)(ii) of the Act.

On appeal, the applicant asserts that she was “taking this opportunity to submit the waiver of inadmissibility and a brief explaining the detail.” The applicant indicates at item 2 on the appeal form that a brief and/or additional evidence would be submitted to the AAO within 30 days.

The applicant subsequently filed a Form I-601 under receipt [REDACTED] which was forwarded to the AAO by the director. The applicant stated that she had not filed the waiver application previously because she was not working and had been unable to submit the filing fee for the application. There is no indication in the record that the director adjudicated the Form I-601 application. The AAO does not have authority to adjudicate a waiver request. Therefore, the case will be remanded to the director for consideration of the Form I-601. The director may request any evidence deemed necessary to assist with the determination of the applicant’s eligibility.

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 for further action consistent with the above.