



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: JUN 03 2013

Office: VERMONT SERVICE CENTER

FILE: [Redacted]

IN RE: Applicant: [Redacted]

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

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg,
Acting Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office on appeal. The case will be remanded for further consideration and action.

The applicant is a native and citizen of Honduras who was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director withdrew TPS because the applicant failed to submit a properly completed Form I-821, and because she failed to provide evidence of a final disposition or written explanation of any arrests.

The director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1).

On December 22, 2010,¹ the applicant was informed that the Form I-821, Application for Temporary Protected Status, submitted for re-registration was incomplete as she indicated yes at Part 4, question 2d (have you ever been arrested, cited, charge ...) and question 2k (have you entered the United States as a stowaway), but failed to submit a written explanation. The applicant was advised to submit a written explanation to each question and complete the Form I-821 with her original signature. The applicant was given 33 days to submit a completed Form I-821.

The applicant, in response, asserted that it was a typographical error on behalf of the preparer of the Form I-821. The applicant submits a Form I-821 and states that question 2k was improperly checked but question 2d did apply to her. The Form I-821; however, was only signed by the preparer of the application.

On May 17, 2011, the applicant was informed that the re-submitted Form I-821 was not properly completed as it did not contain her signature, and that no written explanation or court documents had been provided regarding her arrest(s). The applicant was advised to submit a completed Form I-821 with original signature along with either a written explanation surrounding the circumstances of her arrest(s) or certified judgment and conviction documents from the court(s) for all arrests. The applicant was provided until June 17, 2011 to respond.

On November 2, 2011, the director withdrew TPS because it was determined that the applicant had failed to respond to the notice of May 17, 2011.

On appeal, counsel asserts that the applicant submitted the above mentioned documents on or about June 16, 2011. The applicant's response is not in the record of proceedings and counsel provides no evidence to support her assertion. Counsel, however, submits a Form I-821 dated November 14, 2011, with the applicant's original signature.

Regarding question 2d on the Form I-821, counsel states that the applicant was detained "by

¹ The notice was re-mailed on March 23, 2011.

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Immigration & Customs Border Patrol for allegedly declaring herself to be a United States Citizen despite having produced evidence that she was in lawful temporary protected status. The arrest took place on or about May of 2007.”

The AAO notes that the applicant was granted TPS on May 10, 2000, and the applicant maintained her eligibility through July 2010.

USCIS records reflect that on or about May 4, 2007, the applicant was apprehended near Amarillo, Texas. At the time of her apprehension, the applicant represented herself to be a United States Citizen. A removal hearing was held on February 20, 2008, and the applicant was ordered removed *in absentia*.

As the applicant has presented a properly completed Form I-821 and provided an explanation for question 2d on the Form I-821, she has overcome the grounds for withdrawal of her TPS. However, falsely claiming to be a United States citizen may render the applicant inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act.

The case will be remanded to the director to review the particular facts and circumstances relating to the applicant’s apprehension on May 4, 2007 before determining if the applicant is inadmissible under section 212(a)(6)(C)(ii) of the Act. If the applicant is deemed inadmissible, she shall be advised of the procedures for applying for a waiver of grounds of inadmissibility on Form I-601. 8 C.F.R. § 244.3(b). The director shall then fully adjudicate the Forms I-601 and I-821. The director may request any evidence deemed necessary to assist with the determination of the applicant’s eligibility for TPS. An adverse decision on the waiver application may be appealed to the AAO.

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 appropriate action consistent with the above discussion and entry of a new decision.