

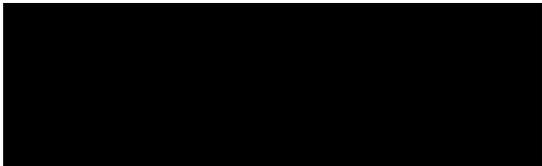


U.S. Citizenship
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Office: VERMONT SERVICE CENTER

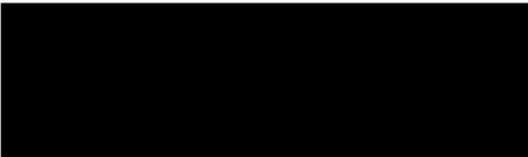
Date: NOV 13 2009

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.


for Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center and is currently before the Administrative Appeals Office on appeal. The applicant's appeal will be sustained.

The applicant is a native and 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 director denied the application because he determined that the applicant was not eligible for late registration for TPS.

The applicant filed an initial application for TPS under receipt number SRC 00 260 55328. The director denied the initial application on July 7, 2003, after determining that the applicant failed to submit an initial TPS application within 60 days after her Form I-485, Application for Status as a Permanent Resident was denied. The applicant filed a subsequent TPS application on November 26, 2004 and indicated that she was filing a re-registration application for TPS. The director denied the application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 2, 2008, and indicated that she was submitting an initial application for TPS.

The director determined that the applicant failed to establish that she was eligible for filing her TPS application after the initial registration period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application.

The record of proceedings reflects that the applicant had filed a Form I-589, Request for Asylum in the United States, on November 19, 1993, that was pending until April 8, 2008; therefore, the applicant is eligible for late TPS registration.

An alien shall not be eligible for temporary protected status under this section if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

It is noted that the record indicates that the New Brunswick, New Jersey Police Department arrested the applicant on December 4, 1995 for "Shoplifting." According to the final court disposition in the record, the applicant was convicted of "Shoplifting," a misdemeanor on December 11, 1995. Conviction for one misdemeanor does not make the applicant ineligible for TPS.

The record of proceedings contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any grounds that would bar the applicant from receiving TPS. Therefore, the director's decision will be withdrawn and the applicant's appeal will be sustained.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by United States Citizenship and Immigration Services (USCIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b). The applicant has met this burden.

ORDER: The appeal is sustained.