



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 27360981

Date: JULY 7, 2023

Appeal of Potomac Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant, a national of Venezuela, seeks Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a.

All TPS applicants must complete Form I-821 in accordance with the form instructions, and submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services (USCIS). 8 C.F.R. §§ 244.6(a), 244.9(a). The instructions for Form I-821 state, in pertinent part that USCIS may require applicants who are over 14 years of age to provide fingerprints at any time to verify their identity, obtain additional information, and conduct background and security checks, including a check of criminal history records maintained by the Federal Bureau of Investigation (FBI), before making a decision on their TPS requests.¹

Because the Applicant's fingerprint data submitted for a criminal background check was rejected as "unclassifiable," the Director of the Potomac Service Center issued a request for evidence (RFE) asking her to submit, in part, a police clearance certificate for each jurisdiction (city, town, county, or municipality) where she resided for six months in the last three years.² As the Applicant's response to the RFE did not include such a certificate, the Director denied her Form I-821, concluding that she failed to establish eligibility for TPS. The matter is now before us on appeal.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand the matter for entry of a new decision.

On appeal, the Applicant submits a certified letter from the [] Police Department, Central Records Bureau, reflecting that a search of the arrest records under the Applicant's name and date of birth did not reveal any records. As the letter appears to satisfy the Director's request for a police clearance certificate, the sole reason for the denial has been overcome.

¹ See Instructions for Form I-821, pages 3 and 13, <https://www.uscis.gov/i-821>.

² The Applicant represented on the instant Form I-821 that she has been residing in [] Florida since she last entered the United States in November 2019.

We will therefore return the matter to the Director for adjudication of the Applicant's TPS request on the merits. The Director may request any additional evidence deemed necessary to determine the Applicant's eligibility for TPS and to process the application.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.