

MATTER OF ZAVALA

In SECTION 245 Proceedings

A-12920829

Decided by Acting Regional Commissioner August 1, 1963

Application for adjustment of status under section 245, Immigration and Nationality Act, as amended, will be denied in the exercise of discretion to a 31-year-old widow, a native and citizen of Honduras, who has 5 minor children residing in Honduras.

The application was denied by the District Director, New Orleans, Louisiana, on June 27, 1963, and the case is now before this office on certification for consideration of the decision in accordance with Part 103.4, Title 8, Code of Federal Regulations.

Applicant is a 31-year-old widowed female native and citizen of Honduras. She last entered the United States at New Orleans on August 22, 1962, and was admitted as a temporary visitor for pleasure for three months. This application, which was filed within two months after her admission, has been denied in the exercise of discretion for the reason that she has five minor children whom she left behind in Honduras and who need her care and protection. The District Director concludes that her plans to bring the children to the United States as permanent residents, coupled with the lack of her suitable employment and the total insufficiency of her sponsor's affidavit of support, offer her no satisfactory financial security in this country. As a further unfavorable factor, the applicant, since her entry into this country, has been arrested by the New Orleans police.

The record reflects that the applicant has five children ranging in ages from 8 to 15 years who are residing with their paternal grandparents in Honduras. At the time she entered the United States it was her intention to seek permanent residence in this country if she liked it here, after which she planned to bring them to the United States, provided she was financially able to do so. Since being in the United States she has not contributed to the support of her children and has herself been supported in the main by funds received from her sisters

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in Honduras. Since the denial of the application she has become employed as a domestic servant.

Applicant was arrested by the New Orleans Police Department together with another female three days after she entered the United States and charged with theft of currency. The charge was dismissed and the alien was released.

While the factor relating to the applicant's arrest is not pertinent to the application, favorable exercise of the Attorney General's discretion is not warranted in this case as the approval of the application would be to sanction the applicant's abandonment of her children. Accordingly, the District Director's decision will be approved and the application will be denied.

ORDER: The decision of the District Director, New Orleans, Louisiana, is approved and the application is denied.