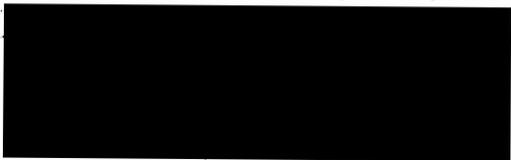


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FILE: [REDACTED]
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OFFICE: CALIFORNIA SERVICE CENTER DATE: **AUG 14 2006**

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:

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


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application for Temporary Protected Status (TPS) was denied by the Director, Texas Service Center. A subsequent appeal was rejected by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO, after the current application was denied by the Director, California Service Center. The appeal will be dismissed.

The applicant is stated to be 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 record reveals that the applicant filed a TPS application on March 15, 1999, under receipt number SRC 99 142 53109. On June 13, 2000, the applicant's TPS application was approved. On October 22, 2003, the applicant was requested to submit court dispositions for all past arrests. On November 24, 2003, the applicant replied stating he could not obtain the court dispositions until he completed his probation. On December 4, 2003, the Texas Service Center director withdrew the applicant's TPS status and denied the TPS application, based on the applicant's two felony convictions.

On March 24, 2004, the applicant filed an appeal of the director's decision to the AAO. On June 27, 2005, the AAO rejected the appeal, finding the appeal was untimely. However, the AAO noted that the applicant pled guilty to two felony criminal charges.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 31, 2004, and indicated that he was re-registering for TPS.

On July 23, 2005, the California Service Center director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant submits a letter from the Florida Department of Corrections stating the applicant has completed his term of supervision (probation).

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and

- (f) (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
- (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

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).

8 C.F.R. § 244.1 defines “felony” and “misdemeanor:”

Felony means a crime committed in the United States, punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except: When the offense is defined by the State as a misdemeanor and the sentence actually imposed is one year or less regardless of the term such alien actually served. Under this exception for purposes of section 244 of the Act, the crime shall be treated as a misdemeanor.

Misdemeanor means a crime committed in the United States, either

- (1) Punishable by imprisonment for a term of one year or less, regardless of the term such alien actually served, if any, or
- (2) A crime treated as a misdemeanor under the term "felony" of this section.

For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a misdemeanor.

The record reveals the following offenses:

- (1) On May 4, 2001, the applicant was convicted of Burglary with Assault or Battery, in violation of Florida Statutes § 810.02(2)(a), a felony
- (2) On May 4, 2001, the applicant was convicted of Tampering with a Witness, in violation of Florida Statutes § 914.22(1), a felony

On appeal, the applicant submits a letter from the Florida Department of Corrections regarding the termination of his probation. However, even though the applicant has satisfied the terms of his probation, he was still convicted of two felonies. The applicant is ineligible for TPS due to his record of two felony convictions, detailed above. 8 C.F.R. § 244.4(a). Consequently, the director's decision to deny the application for this reason will be affirmed.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.