

PUBLIC COPY
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

MI

FILE:

[REDACTED]

OFFICE: California Service Center

DATE: DEC 05 2006

[WAC 05 097 79413]
[SRC 99 230 52762]

IN RE:

Applicant:

[REDACTED]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims 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 director denied the application because he determined that the applicant was ineligible for TPS because the applicant had been convicted of two or more misdemeanors committed in the United States.

On appeal, the applicant states that he has completely changed his life and that he deserves a “second chance”.

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.
8 C.F.R. § 244.1.

The Federal Bureau of Investigation fingerprint results report reveals that the applicant was arrested for the following offenses:

- (1) On April 19, 1998, the applicant was arrested by the Palm Beach County, Florida Police Department and charged with “Driving Under the Influence”

The applicant was found guilty of “DUI”, a misdemeanor;

- (2) On December 19, 1999, the applicant was arrested by the Palm Beach County, Florida Police Department and charged with “Failure to Appear”;

- (3) On August 13, 2000, the applicant was arrested by the Palm Springs, Florida Police Department and charged with “Disorderly Intoxication”

The applicant was convicted on September 12, 2000 of Disorderly Intoxication;

- (4) On September 5, 2000, the applicant was arrested by the Palm Springs, Florida Police Department and charged with “Criminal Mischief” and “Disorderly

Intoxication” [REDACTED] The applicant pled guilty to both of these misdemeanor offenses on November 29, 2001.

- (5) On March 25, 2001, the applicant was arrested by... Palm Springs, Florida and charged with “Obstructing Police Officer” [REDACTED] The applicant pled guilty on April 24, 2001;
- (6) On May 6, 2001, the applicant was arrested by the Palm Beach County, Florida Police Department and charged with “Bail-Secured Bond”, and “DUI Alcohol or Drugs 1st Off”. The applicant was found guilty of “DUI or UBA” [REDACTED] a misdemeanor [REDACTED] he applicant was sentenced to 10 days in jail and paid a fine of \$861; and,
- (7) On February 2, 2002, the applicant was arrested by the Florida Highway Patrol and charged with “Failure to Appear.”

The director determined that the applicant was ineligible for TPS because the applicant committed two or more misdemeanors in the United States. Therefore, the director denied the application on February 21, 2006.

On appeal, the applicant states that he has completely changed his life and that he deserves a “second chance”.

A review of the court dispositions reflects that the applicant he has been convicted of two or more misdemeanors committed in the United States. The applicant is not eligible for temporary protected status because he has been convicted of two or more misdemeanors committed in the United States. 8 C.F.R. § 244.4(a). Therefore, the director’s decision to deny the application for TPS on this ground is affirmed.

It is also noted that the applicant was ordered removed from the United States by an Immigration Judge at Miami, Florida on November 7, 1997.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.