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**U.S. Citizenship  
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FILE: [REDACTED]  
[WAC 05 092 73211]

OFFICE: CALIFORNIA SERVICE CENTER DATE: **JUL 20 2006**

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, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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 record reveals that the applicant filed his initial TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 99 179 51312. The director approved the application on March 7, 2000.

On December 31, 2004, the applicant filed the current Form I-821, Application for Temporary Protected Status, and indicated that he was applying for annual re-registration. The director denied the application because he found that the applicant had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant submits a statement and additional evidence.

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 record reveals the following offenses:

1. On March 23, 2002, the applicant was arrested in San Bernardino, California, and charged with one count of driving without a valid driver’s license and one count of driving under the influence of alcohol with prior convictions.
2. On October 4, 2002, the applicant was arrested in San Bernardino, California, and charged with one count of driving without a valid driver’s license and one count of driving under the influence of alcohol with prior convictions.
3. On October 7, 2002, the applicant was arrested in Norwalk, California, and charged with one count of driving under the influence of alcohol.

Pursuant to a letter dated March 4, 2005, the applicant was requested to provide the final court dispositions of the offenses detailed above. The applicant, in response, provided a document reflecting an arrest on October 4, 2002, on the charge of driving under the influence of alcohol in violation of section 23152(a) VC, but he did not provide final court dispositions for the offenses detailed above.

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and denied the application on June 28, 2005.

On appeal, the applicant submits a court disposition document for the following offense:

4. The applicant was arrested in Los Angeles, California, on June 7, 1998, and charged with: (1) one count of driving under the influence of alcohol in violation of section 23152(a) VC, a misdemeanor; (2) one count of driving under the influence of alcohol with a blood alcohol content of 0.08% or greater in violation of section 23152(b) VC, a misdemeanor; (3) one count of driving without a valid driver's license in violation of section 12500(a) VC, a misdemeanor; and, (4) failure to provide proof of car insurance in violation of section 16028(a) VC, an infraction. On July 2, 1998, the applicant was convicted on all four charges in the Municipal Court of West Covina Courthouse Judicial District, County of Los Angeles, State of California. The applicant was placed on summary probation for a period of one year and ordered to pay various fines and to enroll in, and complete, a three-month licensed first-offender alcohol education and counseling program. The applicant submits a photocopy of a certificate indicating that he completed a first-offender alcohol education and counseling program on December 17, 1998. On Jun 23, 1999, the applicant failed to appear in court to pay his fines, and the court issued a bench warrant in the amount of \$30,000. On April 3, 2002, the applicant appeared in court and admitted that he had violated the terms of his probation by failing to pay the court-mandated fines. The applicant's probation was revoked and he was ordered to serve 30 days in the Los Angeles County Jail in lieu of payment of his fines. (Case Number [REDACTED])

This offense is not reflected in the applicant's FBI fingerprint results report. The applicant has failed to provide court documents reflecting the final court dispositions of his arrests detailed in Nos. 1, 2, and 3 above. The applicant is ineligible for temporary protected status because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Consequently, the director's decision to deny the application for this reason will be affirmed.

The applicant is also ineligible for TPS due to his record of three misdemeanor convictions, detailed in No. 4 above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

The director may withdraw the status of an alien who has been granted TPS under section 244 of the Act at any time if it is determined that the alien was not in fact eligible for TPS at the time such status was granted or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1). If the decision to withdraw Temporary Protected Status is entered by the AAO, the AAO shall notify the alien of the decision and the right to a *de novo* determination of eligibility for Temporary Protected Status in removal proceedings, if the alien is then removable. 8 C.F.R. § 244.14(c).

In this case, it has been determined that the applicant is no longer eligible for TPS because of his record of three misdemeanor convictions and also because of his failure to provide the final court dispositions of the offenses detailed in Nos. 1, 2, and 3 above. Therefore, the applicant's TPS status is hereby withdrawn.

The application will be denied, and the applicant's Temporary Protected Status will be withdrawn, 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 and the applicant's TPS status is hereby withdrawn.