

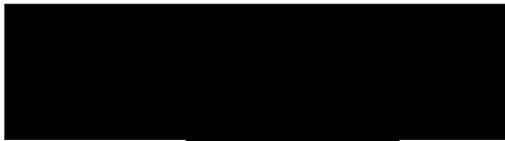
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FILE:



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[WAC 99 114 52467]

OFFICE: CALIFORNIA SERVICE CENTER DATE: OCT 03 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 is a native and citizen of Honduras who was granted Temporary Protected Status (TPS) on April 12, 2000.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 17, 2004, and indicated that he was re-registering for TPS.

The director denied the re-registration application because he found that the applicant had failed to submit requested court documentation relating to her 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 April 14, 2001, the applicant was arrested in Alhambra, California, and charged with one count of possession of deceptive government identification.
2. On April 18, 2003, the applicant was arrested in Los Angeles, California, and charged with one count of prostitution.

Pursuant to a letter dated June 9, 2005, the applicant was requested to submit the final court disposition for each of the charges detailed above. The applicant, in response, provided a court document reflecting the final court disposition of the offense detailed in No. 2 above. According to the court document, the applicant pled nolo contendere in the Superior Court of California, County of Los Angeles, to one count of disorderly conduct: prostitution in violation of section 647(b) PC, a misdemeanor. The applicant also provided the following documents relating to the arrest detailed in No. 1 above:

- a photocopy of a Los Angeles County Jail Booking and Property Record;
- a photocopy of an Alhambra Police Department Arrest Report indicating that the applicant was arrested in Alhambra, California, on April 14, 2001, and charged with possession of false government document in violation of section 529.5(c) PC, a misdemeanor. The arrest report indicates that the applicant had two social security cards in her possession at the time

of her arrest, each bearing a different social security number. The arresting officer stated in the arrest report that the applicant, when questioned as to why she had two social security cards in her possession, told the officer that she had purchased the false social security card in Los Angeles approximately two and one half years previously so she could work in the United States. She further stated that she obtained the second, valid social security card after she had applied for Temporary Protected Status.

- a photocopy of an Alhambra Police Department Property Report indicating that two social security cards in the applicant's name were retained as evidence;
- photocopies of two social security cards, a false social security card bearing the applicant's name and the social security number [REDACTED] and a genuine social security card bearing the applicant's name and the social security number [REDACTED]

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and denied the application on September 26, 2005.

On appeal, the applicant states:

With respect to the arrest of April 14, 2002, in Alhambra, I did not submit any documentation because none exist. On that date, I was unlawfully detained by police officers in Alhambra. However, all charges against me were dropped and all records concerning that arrest were destroyed. The Alhambra police officials apologized to me because they mistakenly believed that I was someone else. As a result, the Alhambra court clerk did not give me any certified court disposition in June 2005 when I requested a copy.

The applicant provides the following:

- a criminal record search from the Superior Courts of California, County of Ventura, indicating that no criminal records were found for [REDACTED]
- a criminal record report from the Superior Court of California, County of Los Angeles, indicating that no criminal record was found for [REDACTED] in the Alhambra or the Monrovia/Santa Anita Court.

The applicant's claim that she was arrested in error on April 14, 2001, because she was mistaken for someone else cannot be accepted. The booking report, the arrest report, the property report, and the photocopies of two social security cards, all bear the applicant's name. The booking and property record and the arrest record bear the applicant's name, date of birth, driver's license number, address in Van Nuys, California, and physical description. The two social security cards both bear the name [REDACTED]

The applicant has not provided any official court documents to corroborate her claim that she was arrested in error after having been mistaken for another person, or that all charges were dropped and the arrest records were destroyed.

The criminal record search documents submitted on appeal are not sufficient to establish the final court disposition of the arrest detailed in No. 1 above. The applicant's criminal record was discovered through a Federal Bureau of Investigation (FBI) fingerprint search. FBI records are regulated by law and furnished for official use only. It is the position of CIS that an FBI fingerprint search provides a more thorough account of an applicant's criminal background than local record searches conducted by name. Furthermore, neither court criminal record search was conducted using the applicant's full and correct name as it appears on her arrest report.

The applicant has failed to provide court documents reflecting the final court disposition of the arrest detailed in No. 1 above. The applicant is ineligible for temporary protected status because of her 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 director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time if it is determined that the alien was not in fact eligible 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 a 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, since it has been determined that the applicant is ineligible for TPS due to her failure to provide the final court dispositions of all charges detailed above, it is further concluded that the applicant has become ineligible for TPS after having been granted that status. Therefore, in accordance with 8 C.F.R. § 244.14, the prior approval of the applicant's TPS status is hereby withdrawn.

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 Temporary Protected Status is withdrawn.