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Office: CALIFORNIA SERVICE CENTER

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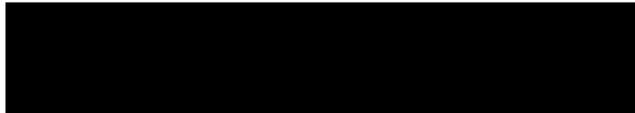
OCT 31 2006

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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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The re-registration application was denied and the applicant's Temporary Protected Status was withdrawn by the Director, California Service Center. The matter 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 was granted Temporary Protected Status (TPS) on September 18, 1999.

On November 23, 2004, the applicant filed the current Form I-821, Application for Temporary Protected Status, and indicated that she was applying for re-registration.

On February 21, 2006, the director denied the current re-registration application and withdrew the applicant's Temporary Protected Status because he found that the applicant had failed to submit requested court documentation relating to her criminal record.

On appeal, the applicant asserts that the charges against her had been dismissed or that the records could not be located.

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 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).

The applicant’s 2006 Federal Bureau of Investigation (FBI) fingerprint results report revealed the following offenses:

1. On October 4, 1998, the applicant was arrested in Los Angeles, California, and charged with “terrorist threats” in violation of section 422 PC, a felony.
2. On December 19, 2001, the applicant was arrested in Las Vegas, Nevada, and charged with petit larceny.

On September 21, 2005, the applicant was requested to provide the final court dispositions of the arrests detailed above. The applicant, in response, submitted a document from the Municipal Court of Glendale Courthouse Judicial District, County of Los Angeles, State of California, indicating that the applicant was arrested on July 23, 1996, and charged with one count of vending without a permit in violation of section 5.08.470 GMC, a misdemeanor, and one count of peddling in an unenclosed vacant lot in violation of section 72.020(a) GMC, a misdemeanor. This document indicates that the applicant failed to appear for her arraignment hearing on these charges on August 28, 1996, but the applicant did not provide a court document reflecting the final court dispositions of these charges.¹ The applicant also failed to submit any court documents reflecting the final court dispositions of the offenses detailed in Nos. 1 and 2 above.

The director denied the re-registration application and withdrew the applicant's Temporary Protected Status on February 21, 2006, because the applicant failed to submit the final court dispositions of the offenses detailed above.

On appeal, the applicant asserts that her arrests were "inaccurately evaluated," but she has not provided any independent evidence to corroborate her assertions. The applicant, on appeal, has once again failed to provide the final court dispositions of the three arrests detailed above.

The applicant is no longer eligible for TPS due to her failure to provide the final court dispositions of the offenses detailed above. Consequently, the director's decision to deny the re-registration application and withdraw the applicant's Temporary Protected Status 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.

¹ It is noted that this arrest is not reflected on the applicant's 2005 fingerprint results report.