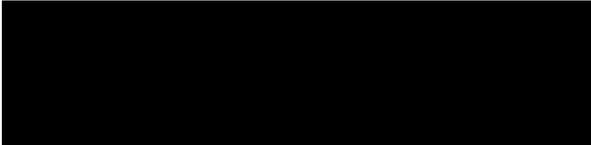


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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: **AUG 20 2007**
[EAC 07 128 50627, *appeal*]
[WAC 99 144 54063]

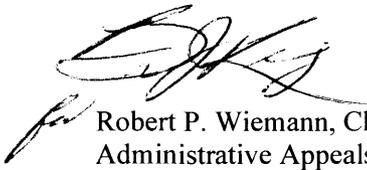
IN RE: Applicant: [REDACTED]

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 Vermont Service Center. Any further inquiry must be made to that office.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and the case is now before the Administrative Appeals Office on appeal.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) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on February 22, 2000. The director subsequently withdrew the applicant's TPS on March 2, 2007, when it was determined that the applicant had failed to respond to a notice of intent to withdraw (ITW) requesting that he submit the final court dispositions of all of his arrests, including the arrests listed on the Federal Bureau of Investigation (FBI) fingerprint results report.

The director may withdraw the status of an alien granted TPS at any time if it is found 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. Section 244(c)(3)(A) of the Act and 8 C.F.R. § 244.14(a)(1).

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. 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 FBI report and CIS data base reveal the following offenses:

- (1) On December 21, 1998, in Los Angeles, California, the applicant was arrested for shoplifting.
- (2) On June 9, 2002, in Los Angeles, California, the applicant was arrested for driving under the influence of alcohol/drugs.
- (3) On August 25, 2005, in Los Angeles, California, the applicant was arrested for driving under the influence of alcohol/drugs.

- (4) On October 7, 2005, in Norwalk, California, the applicant was arrested for driving with .08 percent blood alcohol level or more.

Based on the FBI report, the applicant was requested on June 22, 2006, to submit the final court dispositions of all of his arrests, including the arrests listed on the FBI report. The applicant failed to respond; therefore, the director withdrew the applicant's TPS on March 2, 2007.

On appeal, the applicant asserts that he never received the notice of intent to deny. He states that he has requested the records and will forward them within 15 or 20 days. To date, however, the record contains no further response from the applicant.

A review of the record indicates that the ITW dated June 22, 2006, and the director's notice of decision to withdraw dated March 2, 2007, were both mailed to the applicant's most recent address at that time (North Hollywood, CA 91601). There is no evidence in the record that the applicant had advised CIS of a change of his address, nor is there evidence that the notices were returned to CIS as undeliverable. In fact, the applicant appealed the director's withdrawal decision that was sent to the same address as that of the ITW.

The applicant has failed to provide the final court disposition of his arrests listed above. The applicant is, therefore, 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). Accordingly, the director's decision to withdraw the applicant's temporary protected status will be affirmed.

It is noted on the FBI report that the applicant had indicated that he was born in the United States, and that he is a citizen of the United States. Falsely claiming United States citizenship may render the applicant inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act.

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.