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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

JUN 19 2007

[WAC 05 098 72837]

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:



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DISCUSSION: The application was denied and the TPS status of the applicant was withdrawn by the Director, California Service Center (CSC). The application is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a citizen and national 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 a TPS application on March 1, 1999. The Director, Texas Service Center (TSC), approved that application on April 8, 2000.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 16, 2005, and indicated that she was re-registering for TPS.

The director withdrew the applicant's TPS status on April 13, 2006, after determining that the applicant was ineligible for TPS, pursuant to section 244(c)(2)(B)(i) of the Act, based on her past criminal convictions.

Sec. 244.14 Withdrawal of Temporary Protected Status.

(a) Authority of director. The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time upon the occurrence of any of the following: (Amended 11/16/98; 63 FR 63593)

(1) The alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status;(emphasis added)

Further, 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).

The record of proceedings contains a Federal Bureau of Investigation (FBI) report reflecting the following:

- 1) On June 21, 2000, the applicant was arrested by the Metro-Dade Police Department and charged with "Liquor-Sell-BW Alcoholic Beverage Sell Without A License;"
- 2) On February 24, 2005, the applicant was arrested by the Miami Police Department and charged with "Business Conduct Without License County Ordinance," and "License Doing Business Without;" and,
- 3) On January 6, 2006, the applicant was arrested by the Miami Police Department and charged with "License Doing Business Without," "County Ordinance Violation-Business Conduct Without License," and "Restaurant Separate Records Purchases Sales."

On September 1, 2005, the director sent a notice of intent to withdraw the applicant's TPS status based on the applicant's past arrests as detailed above. The applicant responded to the notice and submitted additional evidence regarding her past arrests. The director determined that the applicant failed to provide the final court disposition for her arrest on February 24, 2005; therefore, the director denied the application on April 13, 2006.

On appeal, counsel provides the final court depositions from the Circuit and County Courts of Dade County, Florida for the above arrests as detailed in Nos. 2 and 3 above.

A review of the final court dispositions reveals that the applicant was convicted on July 5, 2005, of "Doing Business without License County," a misdemeanor, and on February 7, 2006, the applicant was convicted of "Doing Business without Miami City Licenses," a misdemeanor.

In addition, counsel provided a final court disposition for the applicant's arrest on March 1, 2006, reflecting that she was also convicted of "Doing Business without County Occupational License," a misdemeanor, on April 26, 2006. Thus, according to the record, the applicant had been convicted of at least three misdemeanor offenses committed in the United States.

Therefore, the director's decision to withdraw the applicant's TPS status will be sustained, and the applicant remains ineligible for TPS.

It is noted that the court record from the Circuit and County Courts of Dade County also reflects the following arrests:

- 4) On July 9, 1999, the applicant was arrested and charged with "Alcohol/Sell/No License," and;
- 5) On April 18, 1994, the applicant was arrested and charged with "Business w/o License," "B&Z Violation," and "Municipal Ord Viol."

In any future proceedings before CIS, the applicant must submit evidence of the final court dispositions of these and any other charges against her.

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.