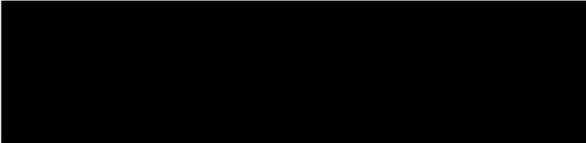




U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

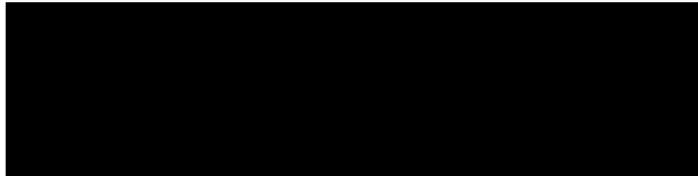
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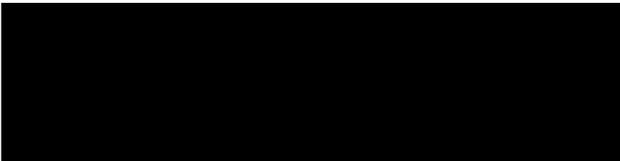
IN RE:

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:



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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and the case is now before the Administrative Appeals Office on appeal.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 June 17, 2000. The director subsequently withdrew the applicant's TPS status on August 3, 2006, when it was determined that the applicant had been convicted of a felony or two or more misdemeanor offenses. Within the same decision, the director denied the applicant's re-registration application, filed on January 27, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 119 73326, because the applicant was ineligible for TPS based on his convictions.

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).

On appeal, counsel asserts that the applicant denies the director's assertion that he has been convicted of two misdemeanors. While counsel indicates that a brief and/or evidence will be furnished within 30 days, to date, no additional statement or evidence has been provided.

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.

Based on the Federal Bureau of Investigation (FBI) fingerprint results report, a notice of intent to withdraw TPS was subsequently issued on August 22, 2005, and again on March 31, 2006, requesting that the applicant submit the final court dispositions of all of his arrests, including the arrests listed on the FBI report. In response, the applicant submitted the following:

- (1) On February 13, 2006, in the County Court at Law, Bexar County, Texas, Case No. [REDACTED] (arrest date May 7, 2005), the applicant (name used: [REDACTED]) was convicted of "driving while intoxicated-2d," a misdemeanor. He was sentenced to confinement in the county jail for one year, credit for time served, and ordered to pay fine in the amount of \$500 and court costs in the amount of \$381.
- (2) On February 13, 2006, in the County Court at Law, Bexar County, Texas, Case No. [REDACTED] (arrest date December 25, 2005), the applicant was convicted of "driving while intoxicated-2d," a misdemeanor. He was sentenced to confinement in the county jail for one year, credit for time served, and ordered to pay fine in the amount of \$500 and court costs in the amount of \$444.
- (3) Although the applicant failed to submit the final court dispositions of all of his arrests, the record of proceeding contains the records of the County Court at Law No. 8, Bexar County, Texas, under Cause No. [REDACTED] (arrest date September 16, 2002), indicating that the applicant was convicted on November 21, 2002, of "driving while intoxicated," a misdemeanor. He was sentenced to serve 4 months in the county jail, suspended, and placed on probation for a term of 364 days, and was ordered to pay fine in the amount of \$600 and court costs in the amount of \$331.

Counsel's assertion that the applicant was not convicted of two misdemeanors is without merit. As detailed in Nos. (1), (2), and (3) above, the applicant was convicted of three misdemeanor offenses.

Accordingly, the applicant is ineligible for TPS due to his convictions of three misdemeanors. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to withdraw the applicant's TPS and to deny the re-registration application 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.