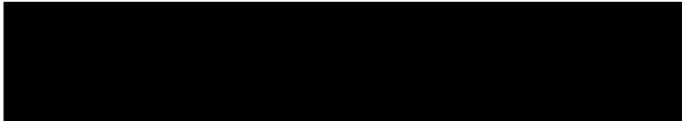


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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **MAY 07 2007**
[WAC 05 800 17007 as it relates to
SRC 02 233 54568]

IN RE: Applicant: [REDACTED]

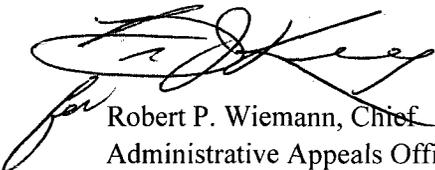
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen 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 director determined that the applicant had been convicted of felony and two misdemeanors in the United States. The director, therefore, withdrew the applicant's temporary protected status.

On appeal, counsel for the applicant states that the applicant had not been convicted of a felony or 2 or more misdemeanors. The applicant also submits evidence in support of this claim.

Sections 244(c)(3)(A) and (C) of the Immigration and Nationality Act (Act) provide that the Secretary of Homeland Security (Secretary) shall withdraw TPS granted to an alien if "the alien was not in fact eligible for such status" or if "the alien fails, without good cause to [re-register...in a form and manner specified by]" the Secretary. Title 8 of the Code of Federal Regulations (CFR), part 244.14(a)(1) and (3) further state that the director may withdraw the status of an alien granted TPS if "the alien was not in fact eligible at the time such status was granted, or, at any time thereafter ineligible for such status" or if "the alien fails without good cause to [re-]register.

The record reveals the following offenses:

- (1) On September 6, 1986, the applicant was arrested by the Miami, Florida Police Department for "DUI", and "Homicide Vehicular."
- (2) On April 27, 1987, the applicant was arrested by the Miami-Dade, Florida Police Department for "Homicide Vehicular."
- (3) On August 19, 1994, the applicant was arrested by the Miami-Dade, Florida Police Department for "DUI."

On September 15, 2005, the director notified the applicant of the intent to withdraw his temporary protected status if the applicant failed to submit requested court documentation relating to his criminal record. The applicant responded to the request and submitted evidence indicating on March 25, 1987, the applicant was convicted of "vehicular Homicide" and two counts of "Driving Under the Influence. The director determined the applicant had been convicted of a felony and two misdemeanors and, therefore, withdrew the applicant's temporary protected status.

On appeal, counsel for the applicant states that that he is attaching documentation to establish that the applicant had not been convicted of a felony, or two misdemeanors, and is therefore eligible for TPS. In support of this claim, the applicant submits non-certified copies of court documentation, which indicate that the applicant was convicted on March 25, 1987 for the felony and misdemeanors listed above. Therefore, the applicant has not overcome the findings of the director pursuant to 8 C.F.R. § 244.14.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence since December 30, 1998 and continuous physical presence from January 5,

1999 to the filing date of the TPS application. Therefore, the application must be denied for these reasons as well.

It is also noted that on May 28, 1993, an immigration judge granted the applicant voluntary departure from the United States on or before June 22, 1993.

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.