



U.S. Citizenship
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Services

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FILE: [REDACTED]
[WAC 05 063 70640]

Office: CALIFORNIA SERVICE CENTER

Date: **MAY 08 2007**

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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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DISCUSSION: The application was denied and the TPS status of the applicant was withdrawn by the Director, California Service Center. The application is now before the Administrative Appeals Office 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 June 15, 2001. The Director, Texas Service Center, approved that application on April 15, 2002.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on December 2, 2004, and indicated that she was re-registering for TPS.

The director withdrew the applicant's TPS status on April 10, 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 that the applicant was arrested for the following:

- 1) On February 19, 1998, the applicant was charged with "Fraud or False Statement";
- 2) On April 9, 2002, the applicant was arrested by the Houston, Texas Police Department and charged with "Theft \geq \$50 $<$ \$500";
- 3) On August 19, 2002, the applicant was arrested by the Hedwig Village Police Department, Houston, Texas, and charged with "Theft \geq \$50 $<$ \$500"; and,
- 4) On April 19, 2003, the applicant was arrested by the Houston, Texas Sheriff's Office and charged with "Theft $<$ \$1,500".

On September 29, 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 and the final court dispositions regarding her past arrests. Based on the record of proceedings, the director determined that the applicant had been pled guilty and was convicted of a felony and two misdemeanor offenses as indicated in Nos. 2, 3, and 4 above; and therefore, withdrew the applicant's TPS status on April 10, 2006.

On appeal, the applicant, through counsel, states that she realizes that she has disqualified herself because of her past actions, and requests a reconsideration of her case.

A review of the court disposition from the certificate of disposition from the Harris County District Clerk, Houston, Texas, reveals that the applicant pled guilty to the charges of "Theft Under \$1500, 3rd Offense", a felony. In addition, the applicant plead guilty to "Theft - \$50-\$500", a misdemeanor, as detailed in Nos. 3 and 4 above. Thus, according to the record, the applicant had pled guilty to one felony and two 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 also noted that the applicant was removed from the United States on February 19, 1998.

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.