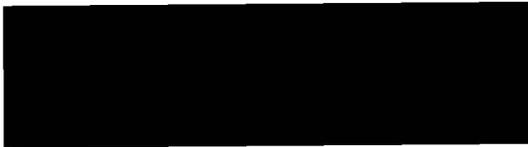




U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAY 08 2007  
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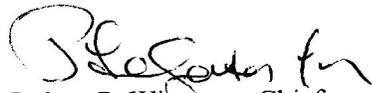
IN RE: Applicant: [REDACTED]

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 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 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 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 his initial TPS application on February 12, 1999, under EAC 99 187 51193. The Director, Vermont Service Center, approved that application on February 25, 2002.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on January 12, 2005, and indicated that he was re-registering for TPS.

The director denied the instant re-registration application on January 13, 2006, because the applicant did not establish prima facie eligibility for TPS.

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).

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.

A review of the record of proceedings reflects that the applicant submitted the final court dispositions from the District Court of Nassau County in Hempstead reflecting the following:

- 1) On April 18, 2000, the applicant was found guilty and convicted of “Operating Veh Under Influence Drug or Alcohol” (VTL 1192.1), a misdemeanor; and,
- 2) On December 23, 2003, the applicant was found guilty and convicted of “Operate Motor Vehicle With .08 of 1% Alcohol” (VTL 1192.2), a misdemeanor.

Therefore, the applicant is ineligible for TPS, pursuant to section 244(c)(2)(B)(i) of the Act, based on his convictions of two misdemeanors. Consequently, the director's decision to deny the application for TPS is affirmed.

Further, pursuant to 8 C.F.R. § 244.14(a) and (c), 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)

(c) Decision by AAU. If a decision to withdraw Temporary Protected Status is entered by the AAU, the AAU shall notify the alien of the decision and the right to a de novo determination of eligibility for Temporary Protected Status in deportation or exclusion proceedings, if the alien is then deportable or excludable, as provided by § 244.10(d).

The applicant's convictions have rendered him ineligible for TPS status. Therefore, in accordance with 8 C.F.R. § 244.14, the applicant's TPS status, which was granted on February 25, 2002, is hereby withdrawn.

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 and the applicant's TPS is hereby withdrawn.