

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

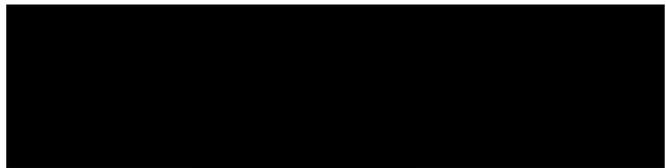
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



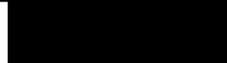
**U.S. Citizenship  
and Immigration  
Services**

**PUBLIC COPY**

*M*



**FILE:**



**Office: VERMONT SERVICE CENTER**

**Date:**

**NOV 06 2007**

[SRC 99 132 53077]

**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: SELF-REPRESENTED**

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

**Robert P. Wiemann, Chief  
Administrative Appeals Office**

**DISCUSSION:** The applicant's Temporary Protected Status (TPS) was withdrawn by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is stated to be a native and citizen of Honduras who was granted TPS on July 5, 2000. The director subsequently withdrew the applicant's status and denied the re-registration application on February 9, 2007, when it was determined that the applicant had failed to submit final dispositions for arrests on July 9, 1997 for driving under the influence and reckless driving and on December 18, 2005 for "Assault - Police Officer Firefighter Intake," resisting an officer with violence to his person, cocaine possession and trespassing on property after a warning.

On appeal, the applicant states that he must present himself in the Judicial Court of Miami for a final decision on his case. He submits a Notice of Appearance dated February 23, 2007 ordering him to appear in the Criminal Division of the County Court of the Eleventh Judicial Circuit of Florida in and for Miami-Dade County for a "felony sounding."

The VSC Director withdrew the applicant's TPS following 8 C.F.R. § 244.14(a)(3) which provides for withdrawal of status if the alien fails without good cause to register with Citizenship and Immigration Services within thirty days before the end of each twelve-month period after the benefit is initially granted. The VSC Director should have followed the regulations at 8 C.F.R. § 244.14(a)(1) which provide for the withdrawal of TPS if the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible.

Section 244(c) of the Act, and the related regulations at 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f) (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or

- (2) During any subsequent extension of such designation if at the time of the initial registration period:
- (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
  - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
  - (iii) The applicant is a parolee or has a pending request for reparole; or
  - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

An alien shall not be eligible for TPS 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 the regulations at 8 C.F.R. § 244.4(a). Additionally, an alien is ineligible for TPS for being convicted of a crime relating to a controlled substance. Sections 244(c)(2)(B)(i) and 212(a)(2)(A)(i)(II) of the Act, and 8 C.F.R. § 244.4(a).

The regulations at 8 C.F.R. § 244.1 define "felony" and "misdemeanor" as:

*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.

The record reflects the following offenses:

- (1) The applicant's Federal Bureau of Investigation (FBI) fingerprint results report shows that on July 9, 1997, he was arrested by the Homestead Police Department in Florida, for driving while intoxicated, a misdemeanor, and reckless driving, a misdemeanor.
- (2) The applicant's FBI fingerprint results report shows that on December 18, 2005, the applicant was arrested by the Homestead Police Department in Florida, for "assault-assault police officer firefighter intake offi," a misdemeanor, resisting an officer with violence to his person, a felony, cocaine possession, a felony, and trespassing on property after a warning, a misdemeanor.

On May 22, 2006, the VSC Director sent the applicant a Notice of Intent to Withdraw (NIW) indicating that his TPS would be withdrawn if he did not provide the final court dispositions for his July 9, 1997 and December 18, 2005 arrests. The applicant did not respond the director's NIW. To date, the applicant has failed to provide any evidence revealing the final court disposition of his arrests detailed above. On appeal, the applicant states that he must present himself in the Judicial Court of Miami for a final decision on his case. However, this statement does not excuse the applicant from submitting the final court dispositions for his arrests as required. The applicant is ineligible for temporary protected status because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Consequently, the director's decision to withdraw TPS and deny the re-registration application is affirmed.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that he is a national or citizen of Honduras. The record does not contain any photo identification such as a passport or national identity document to establish his nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1). Consequently, the director's decision to withdraw TPS and deny the re-registration application is affirmed for this additional reason.

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.