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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[LIN 99 127 52443]

Office: CALIFORNIA SERVICE CENTER

Date: NOV 06 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:
[REDACTED]

INSTRUCTIONS:

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, initially approved the TPS application. The approval was subsequently withdrawn, and the applicant's re-registration application was denied, by the Director, California Service Center (CSC). The case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a 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 record reveals that the applicant filed his TPS application during the initial registration period under CIS receipt number LIN 99 127 52443. The Director, CSC, withdrew the approval of the TPS application on August 2, 2006, pursuant to 8 C.F.R. § 244.14(a)(3), because the applicant had failed to successfully re-register. However, the director should have withdrawn TPS pursuant to 8 C.F.R. § 244.14(a)(1) because the applicant, by failing to provide requested court records necessary for the adjudication of his application, had become ineligible for TPS.

On appeal, counsel states that the applicant did not receive the final court dispositions from the Denver, Colorado County Court, until late; and therefore, was not able to respond to the Director's Notice of Intent to Withdraw until now. Counsel submits copies of the final court dispositions as evidence.

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.

The record reveals the following offenses:

- The applicant was arrested on [REDACTED] in the city of Denver, Colorado, and charged with four counts:
 - Wrongs to Minors;
 - Disturbing the Peace;
 - Threats to Person/Property; and,
 - Assault.

The applicant was not convicted of these charges.

- The applicant was arrested on [REDACTED] in the city of Denver, Colorado, and charged with one count of Disturbing the Peace. The applicant was convicted of that offense on [REDACTED] and was fined a total of \$50.00.

- The applicant was arrested on [REDACTED] in the City of Denver, Colorado, and charged with four counts:
 - Interference;
 - Disturbing the Peace;
 - Assault; and,
 - Trespass.

The applicant was convicted of the interference charge, and the trespass charge on June 18, 2001, and sentenced to 180 days confinement on each charge. The sentences were suspended conditioned upon the completion of one year supervised probation, and 48 hours community service. The Court also imposed a \$139.00 fine as a part of the applicant's sentence.

- The applicant was arrested on [REDACTED] in the city of Denver, Colorado, and charged with three counts:
 - Destruction of Private Property;
 - Disturbing the Peace; and,
 - Threats to Person/Property.

The applicant was convicted of the destruction of property charge on July 10, 2003, and was sentenced to 1 day in jail and a fine of \$383.00.

- The applicant was arrested on [REDACTED] in the city of Denver, Colorado, and charged with three counts:
 - Destruction Private Property;
 - Disturbing the Peace; and
 - Assault.

The applicant was not convicted of these charges.

The applicant is ineligible for TPS due to his record of two or more misdemeanor convictions as detailed above. 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 TPS 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.