

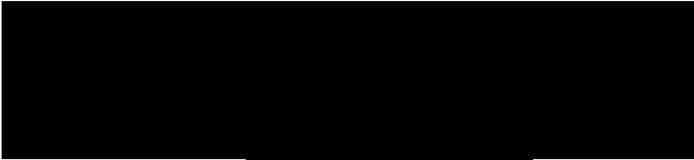
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u.S. Department of Homeland Security  
20 Mass. Ave, N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

[LIN 99 206 51622]

Office: Nebraska Service Center

Date:

APR 03 2008

INRE:

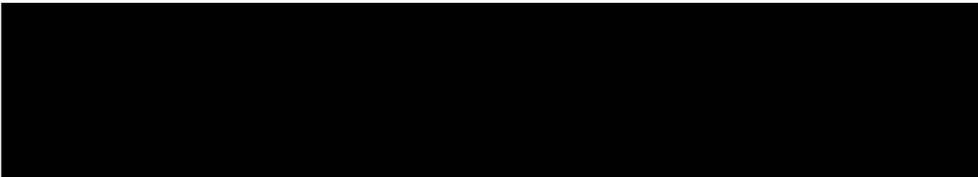
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal.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

The applicant is a native and citizen of Honduras who was granted Temporary Protected Status by an immigration judge at Denver, Colorado on May 27, 2003. The director subsequently withdrew the applicant's Temporary Protected Status on January 25, 2005, when it was determined that the applicant was ineligible because he had been convicted of two misdemeanors in the United States.

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).

On appeal, counsel states that the USCIS director does not have the authority to overrule the decision of an Immigration Judge and that the director withdrew the applicant's TPS status but did not have jurisdiction in this manner. Counsel also states that she will be submitting a separate brief and/or evidence within 30 days. However, as of the date of this notice, no new evidence has been submitted into the record of proceedings. Therefore, the record will be considered complete.

A review of the record of proceedings reflects that the applicant was convicted of the following:

- (1) On October 11, 2000, the applicant pleaded guilty to "Violation of A Restraining Order - Criminal," Colorado Statute 18-6-803.5, (Case # \_\_\_\_\_) a misdemeanor offense (arrest date August 24, 2000);
- (2) On February 12, 2002, the applicant was convicted of "Assault 3 - KnowlReckless cause injury," Colorado Statute 18-3-204, a misdemeanor (arrest date of February 6, 2002); and,
- (3) On January 26, 2001, in the 20<sup>th</sup> Judicial District, Boulder County, Colorado, (Case \_\_\_\_\_) the applicant pleaded guilty and was convicted of harassment, a misdemeanor. The applicant was placed on probation for a period of nine months and ordered to pay a total of \$78 in fines and costs.

The applicant is not eligible for temporary protected status because he has been convicted of three misdemeanors committed in the United States. 8 C.F.R. § 244.4(a). Therefore, the director's decision to withdraw the application for TPS on this ground is 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.