

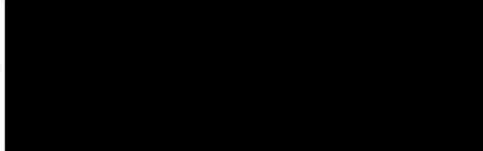
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FILE:

[WAC 99 102 51754]

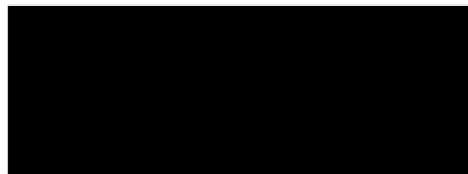
OFFICE: California Service Center

DATE:

AUG 01 2008

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 California Service Center. Any further inquiry must be made to that office.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The re-registration application was denied and the approval of the applicant's TPS was withdrawn by the Director, California Service Center (CSC). The matter is now before the Administrative Appeals Office (AAO) 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 Form I-821, Application for Temporary Protected Status (TPS), on January 19, 1999, under receipt number WAC 99 102 51754. The director approved that application on April 11, 2000.

The applicant filed another Form I-821 on December 14, 2004, and indicated that he was re-registering for TPS.

The director withdrew the applicant's TPS on September 14, 2006, because the applicant failed to properly re-register pursuant to 8 C.F.R. 244.14(a)(3) and that the applicant failed to timely respond to a request for evidence regarding his past arrests. The director, however, improperly withdrew the applicant's TPS for failing to re-register pursuant to 8 C.F.R. 244.14(a)(3), when the applicant's TPS should have been withdrawn based on 8 C.F.R. 244.14(a)(1), failing to maintain eligibility.

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1).

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 report indicating that the applicant has the following arrest record:

- 1) On March 2, 1996, the applicant was arrested by the Whittier, California Police Department, charged with "148.9(A) PC False Identification to Peace Officer" under the alias [REDACTED] convicted in the Municipal Court of Whittier, and sentenced to two years probation.
- 2) On December 11, 1999, the applicant was arrested by the Norwalk, California Sheriff's Office, charged with "001 Counts of FTA After Written Promise" and "001 Counts of False ID to Specific PO S" under the alias of [REDACTED] convicted in the Municipal Court of Whittier, and sentenced to some jail time.
- 3) On August 27, 2002, the applicant was arrested by the Whittier Police Department, charged with "001 Counts of Burglary," under the alias of [REDACTED] and apparently prosecuted on a reduced charge.

- 4) On April 7, 2005, the applicant was arrested by the Huntington Beach, California, Police Department and charged with "001 Counts of Embezzlement," "001 Counts of Conspire, Defraud/Etc. Prsn," and "001 Counts of False Crim, to Spec PO S," under the name of [REDACTED]

On August 25, 2005, the director sent a notice of intent to withdraw the applicant's TPS based on the applicant's past arrests detailed at Nos. 3 and 4 above, and requested the applicant to provide the final court disposition(s) for these arrests. The director determined that the applicant failed to respond to the request and withdrew the applicant's TPS on September 14, 2006.

On appeal, the applicant asserts his eligibility for TPS and submits copies of the following: his Employment Authorization Documents (EAD) from June 27, 2000 to July 5, 2006; a receipt notice dated May 24, 2006; a letter dated August 20, 2003, from [REDACTED] a letter dated August 25, 2003, from the Executive Officer/Clerk of the Superior Court of California of the County of Los Angeles stating the there is no record for the applicant from 1985 to August 25, 2003, under the name of [REDACTED] and two docket reports from the Superior Court of California in Orange County, California, for cases [REDACTED] and [REDACTED], both stemming from an arrest on March 22, 2005, neither of which resulted in a conviction.

A review of the record of proceedings reflects that the director erred in stating that the applicant did not respond to the August 25, 2005, request. The applicant responded to the request on September 13, 2005, and submitted a letter from the Superior Court of California, County of Los Angeles, in Whittier, California, dated September 7, 2005, stating that no record existed for the applicant under the name of [REDACTED] (the name used by the alien in arrest no. 4 above) between the years of 1995 and 2005. However, the letter provided no information about whether the court had any records pertaining to the other three names used in connection with the arrests detailed in Nos. 1, 2 and 3 above.

The record contains the final court disposition for the arrest detailed in No. 1, showing that the applicant was convicted on December 13, 1999, of two counts: (1) "Falsely Represent Self to Ofcr," a misdemeanor offense under California Penal Code § 148.9(a) punishable by up to six months imprisonment (Penal Code § 19), and (2) "Unlicensed Driver," also a misdemeanor under California Section Vehicle Code 12500(A). Thus, the applicant has been convicted of at least two misdemeanors committed in California, which would make him ineligible for TPS under section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

The record contains no final court dispositions for the arrests detailed in No. 2, 3, and 4 above. Therefore, the director's decision to withdraw the applicant's TPS will be affirmed, and the applicant remains ineligible for TPS.

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.