



U.S. Citizenship
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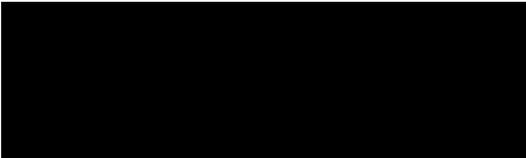
Office: CALIFORNIA SERVICE CENTER

Date: MAY 03 2006

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:



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 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 applicant filed his initial TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 99 113 52476. The director approved the application on March 8, 2000. The applicant filed the current re-registration application on January 3, 2005, and indicated that he had previously been granted TPS and was applying for annual re-registration.

The director denied the re-registration application on May 11, 2005, because he found that the applicant had failed to submit requested court documentation relating to his criminal record.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state 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.

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.
8 C.F.R. § 244.1.

The applicant was required to be fingerprinted on February 3, 2005. The applicant’s fingerprint results report revealed that the applicant was arrested in San Diego, California, and charged with one count of driving under the influence of alcohol and one count of hit and run with property damage.

On March 2, 2005, the applicant was requested to provide the final court disposition of the charges detailed above. The applicant, in response, submitted a document from the Superior Court of San Diego, County of San Diego, State of California, stating that a criminal record had been located relating to the applicant and instructing the applicant to contact the California Department of Justice in Sacramento, California, for further information.

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and denied the re-registration application on May 11, 2005.

On appeal, counsel for the applicant states that the applicant was not given the correct document by the Clerk of Court of the Superior Court. Counsel submits a court record from the applicant’s sentencing hearing

before the San Diego Superior Court, County of San Diego, State of California, indicating that the applicant was convicted in that court on one count of driving under the influence of alcohol in violation of section 23152(a) VC, a misdemeanor. Counsel does not, however, provide the final court disposition on the charge of hit and run with property damage.

The applicant, on appeal, has failed to provide court documents reflecting the final court dispositions of all charges related to the arrest detailed above. 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 deny the re-registration application for this reason will be affirmed.

Furthermore, 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).

In this case, since it has been determined that the applicant is ineligible for TPS due to his failure to provide the final court dispositions of all charges detailed above, it is further concluded that the applicant has become ineligible for TPS after having been granted that status. Therefore, in accordance with 8 C.F.R. § 244.14, the prior approval of the applicant's TPS status 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 withdrawn.