



U.S. Citizenship  
and Immigration  
Services

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*MS*

FILE:



Office: California Service Center

Date:

APR 04 2007

[WAC 05 064 74485 & WAC 99 211 50772]

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 office that originally decided your case. Any further inquiry must be made to that office.

for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's temporary Protected Status (TPS) was withdrawn and the applicant's re-registration application was denied by the Director, California Service Center, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is stated to be 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 an initial TPS application on June 27, 1999, under CIS receipt number WAC 99 211 50772. The director approved that application on November 8, 2000.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 3, 2004, under CIS receipt number WAC 05 064 74485, and indicated that she was re-registering for TPS.

The director simultaneously withdrew the applicant's TPS and denied the re-registration application, on June 1, 2006, as the applicant had been convicted of a felony, and therefore, was not eligible for TPS. As noted by the director the court dispositions confirm that the applicant had been convicted, on April 30, 1997, by the Superior Court of South District Judicial District, County of Los Angeles, State of California, of the following charge: 11351.5 H&S FEL – POSSESS COCAINE BASE FOR SALE. The court imposed a sentence of three years probation, and one day in jail.

On appeal, the applicant states that although she was did not commit the cocaine possession offense, she pled guilty to the offense so that she would retain custody of her children. With the appeal, the applicant submits a photocopy of a Minute Order, from the Superior Court of California of Los Angeles, dated March 10, 1999, that pertains to supervised custody of the applicant's children. The applicant does not submit any additional evidence on appeal.

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 designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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:

Section 244(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.-

(2) ELIGIBILITY STANDARDS.-

(B) ALIENS INELIGIBLE. - An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that-

(i) the alien has been convicted of any felony or 2 misdemeanors committed in the United States,....

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.

After a review of the record, the Chief, AAO, concurs with the director's decision. As noted above, the record reveals a felony conviction for the applicant. Therefore, the applicant is ineligible for TPS due to her record of a felony conviction, detailed above, and she is not eligible to re-register for TPS. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to withdraw TPS, and deny the re-registration 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.