



U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy

*ML*

[REDACTED]

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: APR 23 2007  
[REDACTED] consolidated herein]  
[WAC 99 177 52745]

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 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 application was denied by the Director, California Service Center, and 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 is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record indicates that the applicant filed his initial TPS application on June 7, 1999. Based on arrest information contained in the Federal Bureau of Investigation (FBI) fingerprint results report, the director determined that the applicant was inadmissible to the United States, pursuant to section 212(a)(2)(A)(i)(II) of the Act, based on a drug-related conviction. He also noted that the applicant had records of convictions dating back to 1982, that he was a prior deported aggravated felon, and that he failed to disclose his convictions on his TPS application. The director, therefore, denied the application on March 26, 2003.

The applicant appealed the director's decision on April 22, 2003, and stated that he was not in the United States in 1982.

The AAO reviewed the record of proceeding and noted that the FBI report, the records of the Department of Homeland Security (DHS) database, and the Arizona Department of Public Safety Criminal History Report revealed the following:

- (1) The DHS database shows the following offenses (under the name of [REDACTED]) dangerous drugs on September 27, 1979; burglary on April 9, 1982; escape from custody on March 23, 1982; possession of marijuana on November 21, 1986; possession of a weapon on February 6, 1987; selling marijuana on April 28, 1987; robbery on April 1, 1988; dangerous drugs on September 21, 1988; and dangerous drugs on August 24, 1989.
- (2) The FBI report shows that the applicant was arrested in Chandler, Arizona, on October 7, 2000, for "DUI-LIQUOR/DRUGS/VAPORS/COMBO."
- (3) The Arizona criminal history report shows that on June 10, 1994, in Phoenix, Arizona, the applicant was convicted of failure to provide proof of financial responsibility.
- (4) The Arizona criminal history report shows that on January 18, 1996, in South Phoenix, Arizona, the applicant was convicted of motor vehicle financial responsibility required.
- (5) The FBI report shows that [REDACTED] was arrested in Madera, California (a) on October 26, 1998, for DUI: alcohol/drugs; and (b) on March 7, 1999, for Count 1, "PRVNT/DISUADE WITNS THREAT/FORCE;" Count 2, attempted murder; Count 3, threaten crime with intent to terrorize; and Count 4, "FORCE/ADW NOT FIREARM; GBI LIKELY."

The AAO determined that the record is devoid of the complete, actual final court dispositions of the applicant's arrests (detailed in Nos. 1, 2, 3, 4, and 5 above) to establish that he was in fact convicted of the crimes listed, nor was there evidence in the record that the applicant was provided the opportunity to submit the court dispositions of all of his arrests. Therefore, the AAO remanded the case so that the director could accord the applicant the opportunity to submit arrest reports and final court dispositions of all of his arrests.

A Notice of Intent to Deny (NOID) was, therefore, issued on February 9, 2006, requesting that the applicant submit the final court dispositions of all of his arrests. The director noted that in response, the applicant submitted an affidavit that the charges under [REDACTED] (No. 1 above) do not pertain to him, that he was still a minor child, and that from 1987-1989 he was on active duty with the Honduran Military.

The director further noted that although the applicant submitted court documents relating to a misdemeanor conviction on October 7, 2000 (No. 2 above), he failed to submit the court dispositions of all of his arrests. The director again denied the application on May 5, 2006.

On appeal, counsel asserts that the applicant was seven years old and was living in his native country of El Salvador<sup>1</sup> when the alleged disqualifying crimes were committed, and that he did not commit the said crimes (detailed in No. 1 above).

A review of the record, and as noted by the director, indicates that the applicant, in a statement furnished in response to the NOID, stated that he was not the person who committed the offenses, detailed in No. 1 above (under the name of [REDACTED]; that he "entered the United States in July of 1990 for the first time;" that he used the name of [REDACTED] for 21 days in the year 1991 when he was detained by the Border Patrol; and that starting in March 1987, he was in the Army in Honduras and was released upon graduation in September 1989. The applicant further stated he was convicted for DUI on October 7, 2000, and also for failure to provide proof of financial responsibility on two occasions on January 18, 1996 and June 10, 1994. He submitted the record of the Chandler Municipal Court, Maricopa County, Arizona, under Case No. [REDACTED] indicating that on February 3, 2004 (arrest date October 7, 2000), the applicant was convicted of "DUI-LIQUOR/DRUGS/VAPOR/COMBO," ARS § 28-1381A1, a misdemeanor; the charges for "DUI W/BAC OF .10 OR MORE," under Case No. [REDACTED] was dismissed. (This arrest and conviction relates to No. 2 above.)

The applicant also submitted the records of the Arizona Department of Public Safety, Arizona Traffic Ticket and Complaint, under Complaint Number [REDACTED] indicating that on January 3, 1996, the applicant was issued a complaint for violating (1) ARS § 28-473A, driving on a suspended license; (2) ARS § 1251, no insurance; and (3) ARS § 28-644A, failure to obey a traffic control device. The applicant failed to submit the final court disposition of this arrest. (This arrest and conviction appears to relate to No. 4 above.)

Regarding the offenses committed under the name of [REDACTED] (detailed in No. 1 above), the record indicates that the applicant was indeed only 10 years old on September 27, 1979 (dangerous drugs); 13 years old on April 9, 1982 (burglary) and on March 23, 1982 (escape from custody); and 17 years old on November 21, 1986 (possession of marijuana). The Honduran Military records indicate that the applicant was on active duty from 1987 to 1989 and was subsequently released from active duty on September 12, 1989, during the alleged arrest on February 6, 1987 (possession of a weapon); on April 28, 1987 (selling marijuana); on April 1, 1988 (robbery); on September 21, 1988 (dangerous drugs); and on August 24, 1989 (dangerous drugs). Therefore, it appears that these arrests, ranging from the period September 1979 to August 1989 do not relate to the applicant.

The applicant, however, failed to provide the final court dispositions of his arrests, detailed in Nos. 3, 4, and 5 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).

Although the applicant stated that he entered the United States for the first time in July 1990, the record indicates that the applicant (name used: [REDACTED] entered the United States without inspection on December 30, 1989, and he was subsequently deported (removed) to Honduras on February 23, 1990 (Los Fresnos, Texas). The applicant again entered the United States without inspection on June 25, 1990, and was again removed to Honduras on July 20, 1998 (Eloy, Arizona).

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<sup>1</sup> The record indicates that the applicant is a native and citizen of Honduras.

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.