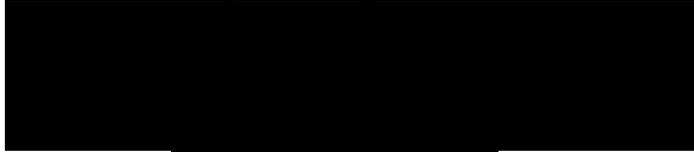




U.S. Citizenship
and Immigration
Services

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invasion of personal privacy**



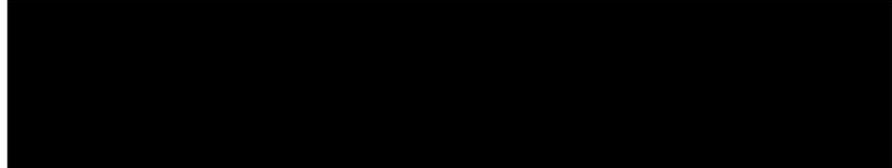
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FILE: [REDACTED]
[WAC 05 103 771554]

Office: CALIFORNIA SERVICE CENTER

Date FEB 02 2007

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.

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 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 a TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 99 231 51057. The record revealed the following offenses:

1. On October 7, 1995, the applicant was arrested in Santa Ana, California, and charged with: (1) one count of sale of a controlled substance, specifically methamphetamine, in violation of section 11379(a) H&S, a felony and, (2) sale or transportation of marijuana in violation of section 11360(a) H&S, a felony. On November 7, 1995, the applicant was convicted in the Superior Court of California, County of Orange, of Counts (1) and (2). The applicant was sentenced to serve 365 days in mail and 36 months probation. (Case No. [REDACTED])
2. On May 15, 1997, the applicant was arrested in Santa Ana, California, and charged with: (1) possession of a controlled substance for sale in violation of section 11378, a felony; (2) possession of marijuana for sale in violation of section 11359, a felony; (3) possession of a deadly weapon in violation of section 12020(a) PC, a felony; and, possession of a firearm, specifically a sawed-off shotgun, by a felon in violation of section 120212(a) PC, a felony. On June 19, 1997, the applicant was convicted in the Superior Court of California, County of Orange, of Counts (1), (2), (3), and (4), all felonies. (Case No. [REDACTED])
3. On April 12, 2002, the applicant was arrested in Garden Grove, California, and charged with one count of possession of a narcotic controlled substance for sale and one count of transporting or selling a narcotic controlled substance. The record contains no information regarding the final court disposition of this arrest.

The director denied the application on July 11, 2003, because he found the applicant had been convicted of six felonies. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 11, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

Beyond the decision of the director, the applicant is ineligible for TPS because of his record of six felony convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Furthermore, the applicant is inadmissible under sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Act due to his drug-related convictions detailed in Nos. 1 and 2 above.

While the issue of the applicant's inadmissibility was not raised by the director, the applicant is also ineligible for TPS due to his inadmissibility under sections 212(a)(2)(A)(I)(II) and 212(a)(2)(C) of the Act. Therefore, the application must also be denied for these reasons. There is no waiver available for inadmissibility under these sections of the Act.

It is noted that the applicant was previously deported from the United States on July 2, 1996.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.