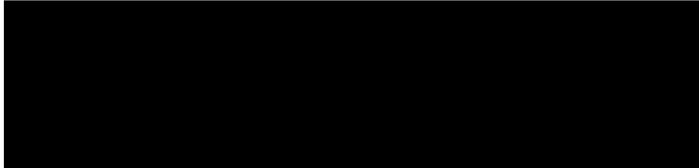




U.S. Citizenship  
and Immigration  
Services

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identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



M

FILE:



Office: California Service Center

Date: FEB 06 2007

[WAC 05 076 72470]

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.

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

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 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, during the initial registration period, the applicant filed an initial TPS application on April 2, 1999, under CIS receipt number SRC 99 153 52810. The Texas Service Center Director denied that application on September 21, 2004, because the director determined that the applicant had failed to respond to a request for additional evidence regarding his two misdemeanor convictions. The applicant had been requested to submit final court dispositions for the charges appearing on his Federal Bureau of Investigation (FBI) fingerprint results report. The FBI fingerprint results report indicates the following:

- 1) On July 14, 1996, the applicant was arrested by the Metro Dade Police Department, Dade county, Florida, and charged with "Charge 001 – Traffic Offense –DUI;"
- 2) On December 14, 2003, the applicant was arrested by the Forest Park Police Department, Forest Park, GA, and charged with: "Charge 001 – Traffic Offense –DUI;" and "Charge 002 – Traffic Offense –DUI;". The FBI record indicates a conviction for one of these charges, with a sentence of 12 months probation, and a \$963.00 fine.

The record does not reflect that the applicant filed an appeal or a motion to reopen / reconsider within the requisite period.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 15, 2004, and indicated that he was re-registering for TPS benefits.

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.

On appeal, the applicant states that he does not understand why his TPS application was denied, and that he never received any request for additional information. The applicant does not submit any evidence with his appeal.

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.

In addition, 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.

It is noted that the applicant has failed to provide any evidence revealing the final court disposition of his arrests detailed above. The applicant is also 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 application must also be denied for this additional reason.

It is also noted that the record reveals that the applicant was apprehended by the U.S. Border Patrol, on July 10, 1993, placed in Removal Proceedings, and subsequently ordered deported, on January 21, 1994, by the Immigration Judge.

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.