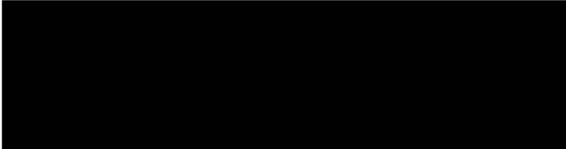




U.S. Citizenship
and Immigration
Services

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



M/1

FILE:



Office: California Service Center

Date: FEB 28 2007

[WAC 05 070 70752]

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 an initial TPS application on August 17, 1999, under CIS receipt number SRC 099 250 50498. The Texas Service Center director denied the application, on August 23, 2005, because the applicant had 2 felony convictions and was ineligible for TPS. The director noted that on May 17, 2000, the applicant was convicted in the Seventeenth Judicial Court, Broward County, Florida, of the offenses of Battery on a Law Enforcement Officer (3rd Degree Felony), and Resisting with Violence (3rd Degree Felony). The record does not reflect an appeal of the decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 6, 2004, under CIS receipt number WAC 05 070 70752, and indicated that he was re-registering for TPS.

The director denied that application on September 15, 2005, because the applicant's prior TPS application had been denied as the applicant had two felony convictions, and was not eligible for re-registration for TPS.

On appeal, the applicant states that he needs the opportunity to live and work freely in order to help his family. With the appeal, in an attempt to establish eligibility for TPS, the applicant submits an arrest record from the Sheriff, Broward County, Florida, for the applicant's arrest on July 14, 1999, and a 2-page record of proceedings pertaining to *People of the State of California vs. Luis Alberto Bustillo*.

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.

It is noted that the record reflects that the applicant was: 1) arrested on July 4, 1999 by the Oakland Park Police Department and charged with Battery on a Law Enforcement Officer, and Resisting Arrest w/violence, and a conviction on a guilty plea to both charges, and concurrent sentences of one year 6 months probation; 2) arrested on May 17, 2000, by the Ft. Lauderdale Police Department, and charged with Aggrav Batt – Pol Off, and Resisting Officer W Viol. Although the record indicates that probation was reinstated and modified, the complete final court disposition is not in the record of proceeding. CIS must address these arrests and/or any convictions in any future proceedings.

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.