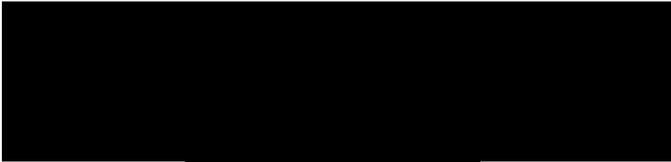




U.S. Citizenship
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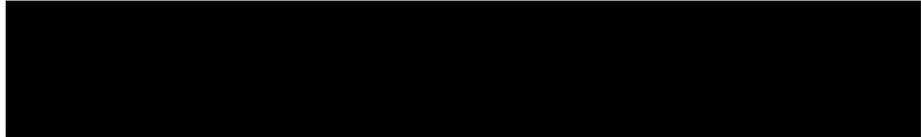
OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUL 02 2007

[WAC 99 215 50561]
[WAC 05 106 75562]

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and the case is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on April 1, 2000. The director subsequently withdrew the applicant's TPS status on September 28, 2006, because the applicant had failed to submit the final court dispositions of all of her arrests as had been requested in the Notice of Intent to Withdraw (ITW) dated August 1, 2006. Within the same decision, the director denied the applicant's re-registration application, filed on January 14, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 106 75562, because the applicant had abandoned her re-registration application based on her failure to respond to the ITW.

The director may withdraw the status of an alien granted TPS at any time if it is found that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. Section 244(c)(3)(A) of the Act and 8 C.F.R. § 244.14(a)(1).

On appeal, the applicant submits a statement and court documents relating to her arrests.

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. 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.

Based on the Federal Bureau of Investigation (FBI) fingerprint results report, the applicant was requested, in a Notice of Intent to Withdraw dated August 1, 2006, to submit the final court dispositions of all of her arrests, including the arrests listed on the FBI report. The applicant failed to respond; therefore, the director withdrew the applicant's TPS status and denied the re-registration application on September 28, 2006.

It is noted that the applicant did respond to the director's ITW. The response was received at the Service Center on September 21, 2006, prior to the director's decision. The applicant submitted court documents relating to her arrests.

On appeal, the applicant requests that she be given the opportunity to be legal in this country because she has been physically living here since 1994. She resubmits court documents previously furnished and explains the circumstances surrounding her arrests.

The record reveals the following offenses:

- (1) On August 5, 2000, in Miami, Florida, the applicant was arrested for Count 1, trespass, Florida Statute (FS) 810.09; Count 2, disorderly intoxication, FS 856.011; and Count 3, resisting arrest without violence, FS 843.02. On September 12, 2006, the Circuit and County Court of the Eleventh Judicial Circuit of Florida, Miami-Dade County (under Case No. [REDACTED]) entered a "nolle pros" on all three counts.
- (2) On April 3, 2001, in the County Court of the Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. [REDACTED] (Booking No. [REDACTED] arrest date March 15, 2001), the applicant was indicted for domestic battery, FS 784.03(1), a misdemeanor. The applicant also submitted a copy of the arrest report on this case and a copy of a "Certificate of Completion-Anger Management Program (AM) dated April 26, 2002. However, the court's final disposition of this arrest and indictment is not contained in the record.
- (3) The FBI report indicates that on July 1, 2001, the applicant was arrested in Palm Beach, Florida, for "battery-touch or strike." On April 29, 2002, the County Court of the Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. [REDACTED] (Booking No. [REDACTED]) entered a "nolle proesse" to the charge of "domestic battery." The court document shows that the applicant was found guilty of "(prev)" [previous charge for domestic battery]. It appears that the "prev" relates to No. 2 above.
- (4) The FBI report indicates that on August 4, 2004, the West Palm Beach Sheriff's Office issued a warrant for the arrest of the applicant for the charge of "stolen vehicle." The applicant submitted a copy of a Probable Cause Affidavit for "auto theft" dated June 2, 2004, from the West Palm Beach Police Department, and the records of the Circuit Court of the Fifteenth Judicial Circuit, Palm Beach County, Florida, under Case No. [REDACTED] indicating that on April 14, 2005, the court issued a "nolle proesse" as to "Count 1: Failure to redeliver hired vehicle."
- (5) On April 20, 2005, in the County Court of the Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. [REDACTED] (arrest date April 3, 2005), the applicant was indicted for driving under the influence, FS 316.193(1), a misdemeanor. On September 14, 2005, the applicant was convicted of the offense. She was placed on probation for a period of 12 months, to complete 50 hours of community service, to enroll in DUI school and "VIP" within 30 days, and her driver's license was suspended for 6 months.

The applicant was convicted of a misdemeanor, as detailed in No. 5 above. Although it appears that the applicant was convicted of a second misdemeanor, domestic battery (No. 2 above), the applicant has failed to submit the complete court records relating to this offense. The applicant is, therefore, ineligible for TPS based on her failure to provide information necessary for the adjudication of her application. 8 C.F.R. § 244.9(a). Consequently, the director's decision to withdraw the applicant's TPS and to 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.