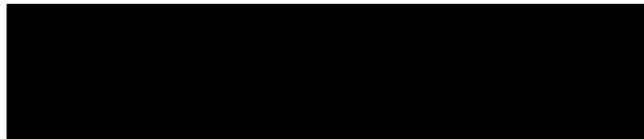




U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy



*MI*

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUL 16 2007  
[WAC 05 062 72562]  
[SRC 99 167 50635]

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:



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**DISCUSSION:** The applicant's temporary protected status was withdrawn by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal.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 director determined that the applicant failed to submit requested court documentation relating to his criminal record. The director, therefore, withdrew the applicant's temporary protected status.

On appeal, counsel for the applicant states the applicant has only been arrested once and has not been convicted of two misdemeanors or one felony.

The director may withdraw the status of an alien granted temporary protected status under Sections 244(c)(3)(A) and (C) of the Immigration and Nationality Act (Act) if "the alien was not in fact eligible for such status" or if "the alien fails, without good cause to [re-register...in a form and manner specified by]" the Secretary. Title 8 of the Code of Federal Regulations (CFR), part 244.14(a)(1) and (3) further state that the director may withdraw the status of an alien granted TPS if "the alien was not in fact eligible at the time such status was granted, or, at any time thereafter ineligible for such status" or if "the alien fails without good cause to [re-]register.

On April 6, 2006, the director notified the applicant of the intent to withdraw his temporary protected status because the record reflected that:

1. On March 2, 1997, the applicant was arrested by the Sheriff's Office, Lancaster, South Carolina, for "Driving Under Influence", and "No Drivers License."
2. On April 29, 2004, the applicant was arrested by the Highway Patrol Chester, South Carolina, for "DUI 3<sup>RD</sup>" and "Driving Under Suspension 1<sup>st</sup>."

The applicant was requested to submit the final court dispositions for the arrests. The applicant was granted 30 days to submit evidence to submit the requested documentation. The applicant failed to respond. The director determined the applicant had failed to submit the requested documentation and, therefore, withdrew the applicant's temporary protected status. In addition, the director denied the applicant's TPS re-registration application for failure to provide the final court dispositions for any arrests and convictions.

On appeal, counsel for the applicant states that the applicant was arrested for DUI on August 2, 2002, and that the case is still pending. According to counsel, the applicant has no other criminal cases. The applicant also states that he has only been arrested once. The applicant has also provided a General Sessions Docket Report for Lancaster County and a copy of a statement from the Chester County Clerk of the Court, which states that there are no criminal records filed against the applicant. The Docket Report indicates the applicant's August 2, 2002 case is still pending. Contrary to counsel and the applicant's claims, a Federal Bureau of Investigation (FBI) fingerprint report indicates that the applicant was actually arrested on three occasions. In addition to the arrests listed above, the report lists an arrest of the applicant by the Chester, South Carolina Highway Patrol for "Driving Under the Influence 1st Offense." The statement from the Chester County Clerk, which states that there are no criminal records filed against the applicant, fails to account for the acknowledged August 2, 2002 arrest. Consequently, this statement lacks credibility. The applicant has not provided final court documentation to overcome the findings of the director. Therefore, the director's decision is affirmed.

On appeal, the applicant also states that his wife is from Honduras and that she is a TPS-eligible alien. It is noted that the applicant indicated on his applications submitted on May 4, 1999, May 25, 2001, and June 4, 2003 that he is single. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Therefore, this claim also lacks credibility.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence since December 30, 1998 and continuous physical presence from January 5, 1999 to the filing date of the TPS application. Therefore, the application must be denied for these reasons as well.

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.