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FILE: [REDACTED]
[WAC 99 225 53390]

Office: California Service Center

Date: MAR 05 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.

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DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal.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 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 12, 1999, under CIS receipt number WAC 99 225 53390. The California Service Center director approved that application on June 18, 2000.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 15, 2005, under CIS receipt number EAC 05 138 78104, and indicated that he was re-registering for TPS.

The California Service Center director simultaneously withdrew the applicant's TPS and denied the re-registration application, on June 5, 2006. The director noted that the applicant failed to submit evidence requested in a March 23, 2006 notice of intent to deny, within 30 days, for the final court disposition of an arrest on August 15, 2003, for driving under the influence of alcohol and drugs; and an arrest on August 5, 2004, for driving under the influence of alcohol and drugs. The director, therefore, deemed the re-registration application abandoned. A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The director, simultaneously, withdrew the applicant's temporary protected status as the applicant failed to comply with re-registration requirements for TPS. Since there was no appeal available for the re-registration application, the AAO will only consider the appeal of the director's decision to withdraw TPS.

On appeal, the applicant states that he will submit a brief and evidence within 30 days. The record reflects that the applicant submitted a certificate of completion of 10 days public service, dated February 17, 2006, issued by the County of San Diego Probation Department, San Diego, California; a DMV Proof of Enrollment, dated November 17, 2002; and a copy of a complaint, for two misdemeanor charges, filed with the Superior Court of California, County of San Diego, North County Division. However, the record does not reflect that the applicant has submitted a brief. Therefore, the record must be considered complete.

The director may withdraw the status of an alien granted temporary protected status under section 244 of the Act at any time if it is determined that "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. The Regulations under 8 C.F.R. § 244.14(a)(1) and (3) further states 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 becomes ineligible for such status," or if, "the alien fails without good cause to re-register".

As noted above, on March 23, 2006, the director notified the applicant of the intent to withdraw his temporary protected status because the record reflected that the applicant had been arrested for two or more misdemeanors. The applicant was granted 30 days to submit final court dispositions. As the applicant failed to submit the requested court dispositions, the director determined the applicant had failed to re-register for TPS and, simultaneously, withdrew the applicant's temporary protected status.

After a review of the record, the Chief, AAO, concurs with the director's withdrawal decision. The applicant has not overcome the findings of the director pursuant to 8 C.F.R. § 244.14.

The AAO also notes that the final court dispositions for the arrests described above are not in the record of proceeding. CIS must address this arrest 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.