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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: MAY 07 2007
[WAC 05 112 75910]

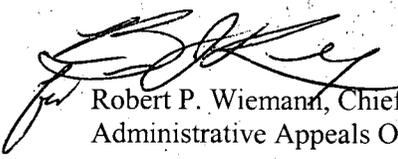
IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:
[REDACTED]

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 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 record reveals that the applicant filed a TPS application during the initial registration period on August 9, 1999, under receipt number WAC 99 230 50630. The director denied that application based on abandonment on October 26, 2000, after determining that the applicant had failed to respond to a request dated April 17, 2000, to submit evidence of his nationality and identity, and to establish continuous residence in the United States since December 30, 1998. It is noted that the applicant was also requested to submit the final court dispositions of all of his arrests, including his arrests listed on the Federal Bureau of Investigation (FBI) fingerprint results report. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 23, 2004, and indicated that he was re-registering for TPS.

The director denied the re-registration application on July 1, 2005, 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, counsel states that the applicant contends that he qualifies for TPS, and that the applicant is requesting an additional 60 days to submit supporting evidence because a Freedom of Information Act (FOIA) has been requested from the Service Center. It has been well over one year, however, and the file contains no further response from the applicant. Therefore, the record shall be considered complete.

The applicant is filing the current TPS application as a re-registration; therefore, 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.

An alien shall not be eligible for temporary protected status 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).

It is noted that the applicant had furnished police reports and letters from the court in response to a notice of intent to deny the applicant's Application for Employment Authorization (I-765) under receipt number WAC 03 176 54553, requesting that the applicant submit the final court dispositions of all of his arrests, and that the "final court disposition must be obtained from the court, not the police station."

The record reveals the following offenses:

- (1) The FBI report indicates that on August 9, 1991, the applicant was arrested in Santa Ana, California, for Count 1, "possess bad check/money order, 475(a) PC, either a felony or a misdemeanor; and Count 2, "receive etc. known stolen property," 496 PC, a felony. The FBI

report further indicates that the applicant was convicted of both Counts 1 and 2. The applicant subsequently submitted a Local Criminal History Transcript from the Santa Ana Police Department indicating that the applicant was convicted of the offenses on August 13, 1991, under Case No. [REDACTED]. The applicant, however, failed to submit the actual final court disposition of these offenses although the applicant was advised that "the final court disposition must be obtained from the court, not the police department."

- (2) The Local Criminal History Transcript from the Santa Ana Police Department also indicates that on July 5, 1990, under Case No. [REDACTED] the applicant was arrested for "urinating in public place." The final court disposition of this arrest is not contained in the record.
- (3) The applicant furnished a letter from the Superior Court of California, County of Orange, indicating that the Central Justice Center had completed a criminal search for the applicant, and that the "criminal record [REDACTED] 2 has been destroyed per section 68153 of the Government Code." It is noted that the arrest information, such as the date and place of arrest and the offense, and other pertinent information regarding this offense, was not listed by the court. Furthermore, the destruction of court records is not evidence that the applicant was not convicted, or that the conviction(s) had been dismissed.

The applicant has failed to provide the final court dispositions of his arrests detailed in Nos. (1) and (2) above. The applicant is, therefore, 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). Accordingly, the director's decision to deny the TPS application will also be affirmed.

It is noted that in removal proceedings held on May 14, 1998, in Las Vegas, Nevada, the Immigration Judge (IJ) denied the applicant's application for asylum and for withholding of deportation, and granted the applicant voluntary departure on or before August 14, 1998, with an alternate order of deportation to Honduras. The applicant appealed the decision of the IJ to the Board of Immigration Appeals (BIA). Because it appeared that the applicant was eligible to apply for TPS, on June 29, 1999, the BIA administratively closed removal proceedings.

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.