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U.S. Citizenship
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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

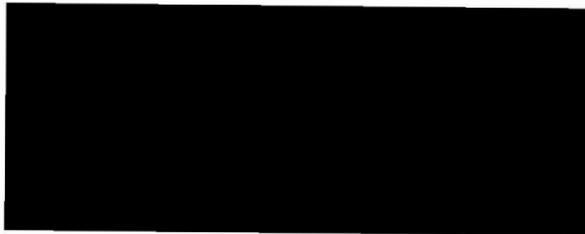
DATE: **MAY 21 2007**

[WAC 99 116 52009]

[WAC 05 049 73902]

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and the case is now before the Administrative Appeals Office on appeal.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 January 28, 2000. The director subsequently withdrew the applicant's TPS status on August 10, 2006, when it was determined that the applicant had failed to respond to a Notice of Intent to Withdraw (ITW) dated October 13, 2005, requesting that he submit the final court dispositions of all of his arrests, including his arrests listed in the Federal Bureau of Investigation (FBI) fingerprint results report. Within the same decision, the director denied the applicant's re-registration application, filed on November 18, 2004, under Citizenship and Immigration Services (CIS) receipt number WAC 05 049 73902, because the applicant had failed to provide the final court dispositions of any and all criminal arrests and/or convictions.

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 asserts that he never received any notice of request for evidence, nor was he informed during all the inquires he has made regarding his application.

A review of the record of proceeding indicates that the director's ITW dated October 13, 2005, was mailed to the applicant at his address ([REDACTED]) there is no evidence in the record that the notice was returned to CIS as undeliverable.

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.

The record of proceeding contains the FBI report revealing the applicant's arrests and/or convictions. Although the applicant was requested on October 13, 2005, to submit the final court dispositions of all of his arrests, the record contains no court documents relating to the following:

1. On November 22, 2002, in Los Angeles, California, the applicant (name used: [REDACTED]) was arrested and charged with (1) driving with .08 percent blood alcohol level causing bodily injury, 23153(b) VC; (2) hit and run/death or injury, 20001(a) VC; (3) driving without a license, 12500(a) VC; (4) false proof of financial responsibility, 16028(a) VC; and (5) driving under the influence of alcohol/drugs causing bodily injury, 23153(a) VC.
2. On November 17, 2003, in Santa Barbara, California, the applicant (name used: [REDACTED]) was arrested for "ALT/FORGE/ETC DRIV LIC/ID."
3. On April 4, 2005, in Santa Barbara, California, the applicant (name used: [REDACTED]) was arrested for "DUI, ALC/DRUG, RSLT, BOD INJ."
4. On April 5, 2005, in Norwalk, California, the applicant (name used: [REDACTED]) was arrested for "DUI ALC/DRUGS, BODILY INJ."
5. On October 21, 2005, in Santa Barbara, California, the applicant (name used: Juan Ramon Martinez) was arrested for "DUI, ALC/DRUG, RSLT, BOD INJ."

The applicant has failed to submit the final court dispositions of all of his arrests, detailed in Nos. 1, 2, 3, 4, and 5 above. Therefore, he is ineligible for TPS because of his failure to provide information necessary for the adjudication of his 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.