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U.S. Citizenship
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: FEB 21 2008
[SRC 99 256 60198]

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: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned
to the California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "RWiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status (TPS) was withdrawn and an application for re-registration was simultaneously denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) 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 director withdrew the applicant's TPS because the applicant had been convicted of at least two misdemeanors in the United States.

On appeal, the applicant apologizes for his previous wrongdoings and requests that his application be reconsidered.

The director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined 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).

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).

"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. 8 C.F.R. § 244.1.

"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. 8 C.F.R. § 244.1.

On July 17, 2007, the director issued a Notice of Intent to Withdraw TPS, which requested the applicant to submit the final court dispositions for *all* his arrests. The applicant, in response, submitted court dispositions which revealed the following in the state of Florida:

1. On March 25, 2001, the applicant was arrested by the Palm Springs Police Department for burglary of dwelling – no assault or battery, a 2nd degree felony. On September 6, 2001, the applicant was convicted of a reduced offense of trespassing, a violation of statute FL810.08(2)(B), a 1st degree misdemeanor. The applicant was sentenced to serve 30 days in jail. Case no. [REDACTED]
2. On April 27, 2003, the applicant was arrested by the Sheriff's Office in Palm Beach County for operating a motor vehicle without a valid license, a violation of statute FL322.03(1), and hit and run causing property damage, a violation of statute FL316.061, both 2nd degree misdemeanors. On April 28, 2003, the applicant was convicted of hit and run. The prosecutor entered *nolle prosequi* for the charge of driving a motor vehicle without a license. Case no. [REDACTED]

3. On May 8, 2003, the applicant was arrested by the Sheriff's Office in Palm Beach County for operating a motor vehicle without a valid license, and driving under the influence of alcohol or drugs both 2nd degree misdemeanors. On May 9, 2003, the applicant was charged with driving under the influence causing property damage, a violation of statute FL 316.193(3)(a)(b)(c)(1), operating a motor vehicle without a valid license, a violation of statute FL 322.03(3b), and careless driving, a violation of statute FL316.1925(1). On August 26, 2003, the applicant was arrested under warrant by the Sheriff's Office in Palm Beach County for two counts of failure to appear, a violation of statute FL 843.15(1B), both 1st degree misdemeanors. On August 28, 2003, the applicant was convicted of driving under the influence of alcohol or drugs causing property damage. The applicant was placed on probation for one year and ordered to pay a fine and enroll in a driving under the influence school. The charge of operating a motor vehicle without a valid license was dismissed, and the prosecutor entered *nolle prosequi* for the charge of careless driving. Case no. [REDACTED]
4. On August 21, 2005, the applicant was arrested by the Lake Worth Police Department for battery, a violation of statute FL 784.03(1), a 1st degree misdemeanor. On July 3, 2006, the prosecutor entered *nolle prosequi* for the charge. Case no. [REDACTED]

In the Notice of Intent to Withdraw TPS, the applicant was requested to submit the final court disposition for his arrest on October 19, 2003, by the Palm Springs Police Department for hit and run, a violation of statute FL316.027(1A), a 3rd degree felony, and operating a motor vehicle without a valid license, a violation of statute FL322.03(1), and resisting an officer- refuse to sign or accept citation, a violation of statute FL318.14, both 2nd degree misdemeanors. The applicant, however, failed to submit the requested court disposition.

The applicant is ineligible for TPS due to his three misdemeanor convictions detailed above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The applicant is also ineligible for TPS because of his failure to provide the requested court disposition for his October 19, 2003, arrest necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Therefore, in accordance with 8 C.F.R. § 244.14(a)(1), the prior approval of the applicant's TPS is hereby withdrawn.

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.