

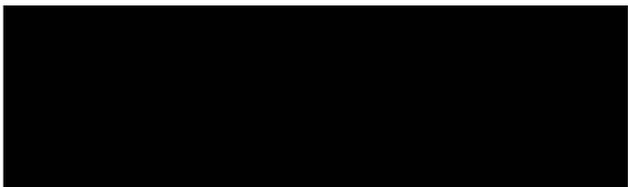
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U.S. Department of Homeland Security
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Washington, DC 20529



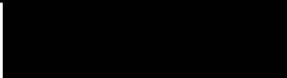
U.S. Citizenship
and Immigration
Services

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FILE:



[LIN 99 128 51076]

OFFICE: VERMONT SERVICE CENTER

DATE: UAR 11 2008

INRE:

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 Vermont Service Center. Any further inquiry must be made to that office.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The matter 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 withdrew the applicant's TPS because he had been convicted of at least two misdemeanors in the United States.

On appeal, the applicant asserts that his battery charge "was satisfactory completed and even the court returned the bond of \$250.00 to me because in reality all was invented by the woman companion that was living with me and her purpose was to bloac [sic] mail me in order to receive money." The applicant states that the case was terminated because the judge informed his companion that "if she continue doing that to me who will in jail will be her and not me." The applicant asserts that the remaining charge of domestic battery was terminated as he completed the court requirements.

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).

"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.

In response to a Notice of Intent to Withdraw TPS issued on September 22, 2005, and June 15, 2006, the applicant submitted the requested court dispositions, which revealed the following offenses in the state of Illinois.

1. On October 29, 2000, the applicant was arrested by the Joliet Police Department and subsequently charged with knowingly damaging property, domestic violence, and two counts of interfering reporting a domestic violence. On January 29, 2001, the prosecutor entered *nolle prosequi* for all charges. Case no. [REDACTED]
2. On February 26, 2001, the applicant was arrested by the Joliet Police Department for domestic battery. On June 27, 2001, the applicant was convicted of this Class A misdemeanor, ordered to pay a fine and placed on probation for one year. Case no. [REDACTED]
3. On January 1, 2003, the applicant was arrested by the Joliet Police Department and subsequently charged with domestic battery. On July 2, 2003, the prosecutor entered *nolle prosequi* for the charge. Case no. _
4. On June 19, 2005, the applicant was arrested by the Romeoville Police Department and subsequently charged with driving under the influence of alcohol. On August 22, 2005, the

applicant pled guilty to the Class A misdemeanor of a fine and placed on probation for one year. Case no

t was ordered to pay

On appeal, the applicant asserts that he paid everything and has successfully completed all the court's requirements for number two above. However, neither payment of fines nor compliance with the court's orders eliminates a conviction.

It must be noted that the record contains a FBI report dated August 21, 2007, which reveals that the applicant was arrested on June 18, 2006, by the Joliet Police Department for domestic battery. Although this arrest occurred two days after the second Notice of Intent to Withdraw was issued, the notice did specifically advise the applicant to submit the final court dispositions "of every charge against you." The applicant, however, failed to provide the final disposition for this arrest.

The applicant is ineligible for TPS due to his two 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 final court disposition of his June 18, 2006, 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 director's decision to withdraw the applicant's TPS is affirmed.

Finally, the record reflects that on April 1, 1998, a Form 1-862, Notice to Appear, was served upon the applicant, based on his entry into the United States without inspection at or near Brownsville, Texas on or about March 27, 1998. On February 16, 1999, an immigration judge administratively closed the applicant's case because of a finding that the applicant was eligible for TPS.¹

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.

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¹ Administrative closing of a case does not result in termination of the proceedings. It is merely an administrative convenience, which allows the removal of cases from the calendar in appropriate situations. See *Matter a/Gutierrez-Lopez*, 21 I&N Dec. 479 (BIA 1996).