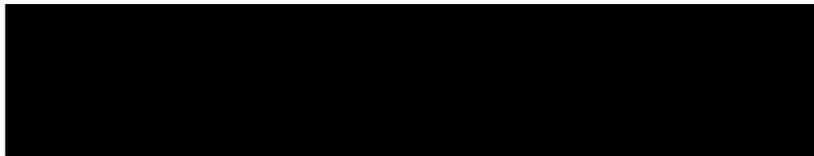


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prevent clearly unwarranted
invasion of personal privacy**

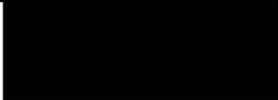


**U.S. Citizenship
and Immigration
Services**

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FILE:



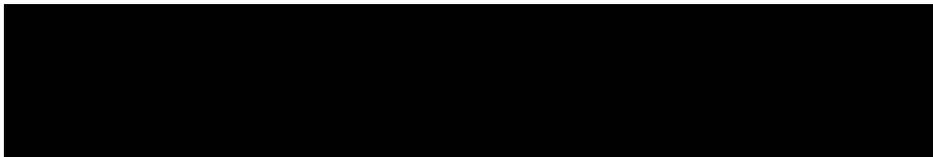
Office: CALIFORNIA SERVICE CENTER

Date: **MAR 25 2008**

[LIN 99 207 51733]

INRE:

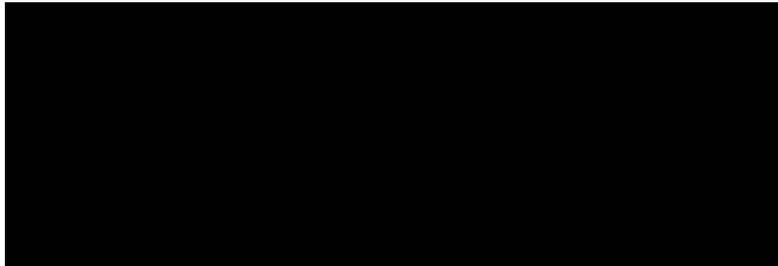
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: Approval of the application was withdrawn by the Director, California Service Center (CSC). The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a citizen and national 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 on June 22, 1999, under receipt number LIN'99 207 51733. The Director, Nebraska Service Center (NSC), approved that application on April 10, 2000.

The applicant filed the current Form 1-821, Application-for Temporary Protected Status, on December 23, 2004, and indicated that he was re-registering for TPS.

The director withdrew the applicant's TPS status on October 2, 2006, after determining that the applicant failed to timely respond to a request for evidence regarding his past arrests.

Sec. 244.14 Withdrawal of Temporary Protected Status.

(a) Authority of director. The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time upon the occurrence of any of the following:

(1) The alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status; (emphasis added)

Further, 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. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

The record of proceedings contains a Federal Bureau of Investigation (FBI) report reflecting that the applicant was arrested for the following offenses:

- (1) On June 5, 2002, the applicant was arrested by the Sheriffs Office, Tacoma, Washington, and charged with "Theft 2;" and,
- (2) On April 1, 2004, the applicant was arrested by the Federal Way Police Department and charged with "Theft - 3."

On August 17, 2006, the director sent the applicant a notice of intent to withdraw his TPS based on the applicant's past arrests as detailed above, and requested the applicant to provide the final court dispositions for these arrests. In response, the applicant provided a letter from his doctor, dated September 6, 2006, stating that the applicant was under his care. The applicant did not provide the requested documentation; and therefore, the director withdrew applicant's TPS on October 2, 2006.

On appeal, counsel asserts that both of the applicant's convictions were dismissed by the State court without prejudice. In addition, counsel provides copies of the following: a Motion and Order of Dismissal Without Prejudice, dated July 11, 2002, from the Superior Court of the State of Washington for Cause No. _____ and a history printout from the Federal Way Municipal Court, dated September 8, 2006, regarding the applicant's arrest for "Theft 3."

The history printout dated September 8, 2006, reveals that the applicant pled guilty to "Theft 3," a misdemeanor offense. However, it is not clear from the documentation provided that the order of dismissal relates to the arrest detailed in No.1 above. The applicant is 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). Therefore, the director's decision to withdraw the applicant's TPS status will be affirmed, and the applicant remains ineligible for TPS.

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.