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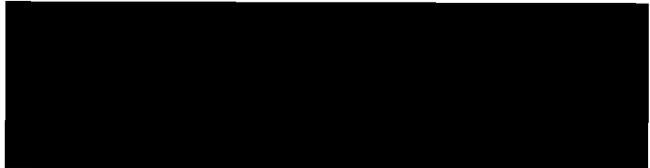
U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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Services

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MAR 17 2010

FILE:



Office: VERMONT SERVICE CENTER

Date:

[EAC 01 084 51061]

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:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal.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 record reveals that the applicant filed a TPS application during the initial registration period on January 19, 2001, under receipt number EAC 01 084 51061. The Director, Vermont Service Center, approved that application on July 23, 2001.

The director may withdraw the status of an alien granted Temporary Protected Status 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. 8.C.F.R. § 244.14(a)(1).

The director withdrew temporary protected status because the applicant failed to provide to submit requested court documentation relating to his criminal record.

On appeal, counsel for the applicant states that the applicant's failure to submit the requested dispositions was not intentional and that his family would suffer extreme hardship if the applicant is not allowed to pursue his immigration case. The applicant also submits the requested court dispositions.

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).

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. 8 C.F.R. § 244.1.

The record reveals the following offenses:

- (1) On September 8, 2006, the applicant was arrested by the Mt. Pleasant Town, New York Police Department for "Burglary – 3rd Class." [REDACTED]
- (2) On July 11, 2007, the applicant was arrested by the Ossining, New York Police Department for "Crim Contempt – 2nd" and "Disobey Crt." [REDACTED]
- (3) On October 10, 2007, the applicant was arrested by the Mount Kisco, New York Police Department for " CPSP 3rd –Value of Prop > \$3000" and "Gr Larceny – 3rd: Value > \$3000." [REDACTED] and [REDACTED]
- (4) On January 17, 2008, the applicant was arrested by the Mount Kisco Village, New York Police Department for "Aslt 3 – W/Int Cause Phys Injury" and "Act in Manner Injur Child."

Pursuant to a notice dated March 20, 2009, the applicant was requested to submit the final court disposition for each of the charges detailed above. The applicant failed to respond to the notice.

The director withdrew temporary protected status because the applicant had failed to submit evidence necessary for the proper adjudication of the application.

On appeal, counsel for the applicant states that the applicant's failure to submit the requested dispositions was not intentional and that his family would suffer extreme hardship if the applicant is not allowed to pursue his immigration case. Counsel's statements made on appeal have been considered. Nevertheless, there is no waiver available, even for humanitarian reasons, of the requirements stated above. The applicant also submits the requested court dispositions.

According to the dispositions: on November 9, 2006, the applicant was found guilty of "Crim Trespass -2," a misdemeanor; on August 14, 2008, the applicant was convicted of "Crim Possession of Stolen Property – 5th Degree," a misdemeanor; on February 24, 2009, the applicant was convicted of "Assault -3rd," a misdemeanor. The applicant is, therefore, ineligible for TPS because of his misdemeanors convictions. 8 C.F.R. § 244.4(a). Accordingly, the director's decision to withdraw TPS is 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.