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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



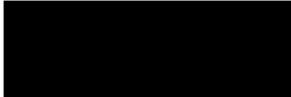
U.S. Citizenship  
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FILE:



OFFICE: CALIFORNIA SERVICE CENTER DATE:

NOV 18 2010

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the California Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the California Service Center by filing a Form I-290B, Notice of Appeal or Motion. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010, must be filed with the \$630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a native and citizen of Haiti 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 denied the application because the applicant had been convicted of two misdemeanors in the United States.

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

An alien shall not be eligible for TPS 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).

"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:

1. On July 21, 2004, the applicant was convicted in the Collier County Circuit Court of Florida of driving while license suspended/revoked, a violation of Florida Statute section 322.34(2)(b), a misdemeanor of the first degree. The applicant was ordered to pay a fine, sentenced to serve ten days in jail and placed on probation for six months. [REDACTED]
2. On January 8, 2003, the applicant was arrested by the Naples Police Department of Florida for driving under the influence, a violation of Florida Statute section 316.193(2)(a), a misdemeanor of the second degree. On March 12, 2003, the applicant was convicted of this offense. The applicant was ordered to pay a fine and placed on probation for six months. The applicant subsequently violated his probation and on November 10, 2003, the applicant was ordered to serve ten days in jail. [REDACTED]
3. On November 29, 2003, the applicant was arrested by the Naples Police Department of Florida for driving while license suspended/revoked, a violation of Florida Statute section 322.34(2)(a), a misdemeanor of the second degree. On December 22, 2003, the applicant was convicted of this offense. The applicant

was sentenced to serve ten days in jail, ordered to pay a fine and was placed on probation. [REDACTED]

The applicant is ineligible for TPS due to his misdemeanor convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The applicant's statements on appeal have been considered. However, there is no waiver available, even for humanitarian reasons, of the requirements stated above. Consequently, the director's decision to deny the application for this reason will be affirmed.

An alien applying for TPS 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.

Finally, while not the basis for the dismissal of the appeal, it is noted that the record reflects that a Form I-862, Notice to Appear, was issued and served on the applicant on June 30, 1998. The applicant filed a Form I-589, Application for Asylum and for Withholding of Removal, on February 11, 2009. On November 10, 1999, a removal hearing was held and the applicant's asylum application was denied and he was ordered removed from the United States. The applicant appealed the immigration judge's decision to the Board of Immigration Appeals (BIA). On February 22, 2002, the BIA dismissed the applicant's appeal.

**ORDER:** The appeal is dismissed.