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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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



M₁

DATE: **APR 27 2011** Office: VERMONT SERVICE CENTER

FILE: WAC 02 265 54845

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:

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 Vermont 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 Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. 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DISCUSSION: The applicant's Temporary Protected Status was withdrawn and an application for re-registration was simultaneously denied due to abandonment by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) 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 the applicant had failed to submit requested court documentation relating to his criminal record, and he failed to submit a completed TPS application.

On appeal, counsel for the applicant submits a completed TPS application. Counsel indicates at Part 2 on the appeal form that a brief and/or additional evidence would be submitted to the AAO within 30 days.¹ To date, however, no additional correspondence has been presented by counsel or the applicant.

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 TPS 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.

The first issue to be addressed is the applicant's failure to submit a completed TPS application.

At the time the applicant filed his re-registration application, he failed to sign and complete all of the questions at Part 4. On appeal, counsel submits a completed and signed TPS application. As such, the director's finding on this issue will be withdrawn.

The second issue to be addressed is the applicant's criminal history.

The Federal Bureau of Investigation report dated September 7, 2010, reflects that the applicant was arrested on: 1) July 25, 2005 by the Sheriff's Office in New Orleans, Louisiana for safety belt use, registration required and driver's license; and 2) October 9, 2009, by the Kenner Police Department

¹ Every appeal submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. 8 C.F.R. § 103.2(a)(1). The Form I-290B instructs the applicant to submit a brief and additional evidence to the AAO within 30 days of filing the appeal.

in Louisiana for driving while intoxicated, resist arrest by flight, reckless operation vehicle, simple obstruction of highway, disregard stop sign, unattended motor vehicle, liability security required, park parallel to curb, vehicle without required equipment, renewal registration and vehicle needs inspection tags.

On September 13, 2010, a notice was issued requesting that the applicant submit certified judgment and conviction documents from the courts for all arrests. The applicant, in response, submitted certified court documentation in Case no. 06-0074693-001 from the New Orleans Traffic Court indicating that the applicant was ordered to pay a fine for violating the municipal codes on July 25, 2006.

The applicant also submitted court documentation from the First Parish Court of Jefferson Parish regarding his arrest on October 9, 2009. The court documentation indicated that the case was continued to October 27, 2010.

The final outcome of the charges, however, was not made available to U.S. Citizenship and Immigration Services prior to the issuance of the director's decision. On December 16, 2010, the director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and withdrew the applicant's TPS.

The applicant has failed to provide any evidence revealing the final court disposition of his arrest that occurred on October 9, 2009. The applicant is ineligible for TPS because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Consequently, the director's decision to withdraw TPS and deny the re-registration application due to abandonment on the criminal issue 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.

ORDER: The appeal from the withdrawal of the TPS application is dismissed.