

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

PUBLIC COPY

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



M,

DATE: JUN 13 2011 Office: VERMONT SERVICE CENTER

FILE: 

IN RE: Applicant: 

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

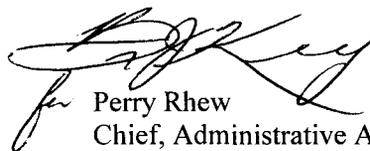
ON BEHALF OF APPLICANT: Self-represented

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 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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office on appeal. The case will be remanded for further consideration and action.

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 TPS because the applicant had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant submits the requested documentation relating to his criminal history.

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. 8 C.F.R. § 244.14(a)(1).

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.

At Part 4, item 2d of his re-registration application, the applicant answered "yes" to having been arrested, cited, charged, indicted, fined, or imprisoned for breaking or violating any law or ordinance.

The director, in his decision to withdraw the applicant's TPS, noted that on August 30, 2010, a notice was sent to the applicant instructing him to submit the final dispositions of any arrests. The applicant, however, failed to respond within the timeframe provided.

The applicant, on appeal, submits a certified document from the Utah Department of Public Safety, which indicated that the criminal history information was verified by fingerprint comparison. The criminal history record reflects that the applicant had been arrested twice; May 14, 2002 and December 22, 2009.

On May 14, 2002, the applicant was arrested by the West Valley Police Department for criminal mischief, assault-domestic violence, and domestic violence in front of a child. On December 30, 2002, all charges were dismissed [REDACTED]

On December 22, 2009, the applicant was arrested by the Salt Lake City Police Department for assault, battery, and disturbing the peace. On March 23, 2010, the applicant pled guilty to battery, an ordinance violation of Salt Lake City, Utah Code section 11.08.020. The applicant was ordered to pay a fine of \$300. Upon payment of fine, on April 5, 2010, the battery conviction was dismissed. The remaining offenses were also dismissed.

The applicant, on appeal, has provided primary evidence from a relevant government authority that serves as the custodians of records, indicating that no record of conviction exists. There are no other known grounds of ineligibility, therefore, the director's decision to withdraw the applicant's TPS will, itself, be withdrawn. However, the validity period of the applicant's fingerprint check has expired.

Accordingly, the case will be returned for the purpose of sending the applicant a fingerprint notification form, and affording him the opportunity to comply with its requirements. Following completion of this requirement, the director will render a new decision. Should the decision be adverse, the director must give written notice setting forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i), and the applicant shall be permitted to file an appeal without fee.

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 met this burden.

**ORDER:** The case is remanded for appropriate action consistent with the above.