

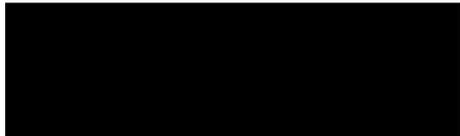
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



M<sub>1</sub>

FILE:  OFFICE: CALIFORNIA SERVICE CENTER DATE:

IN RE: Applicant: 

MAR 29 2011

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

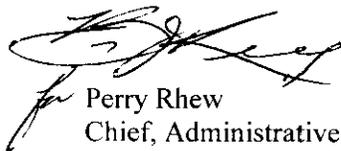
ON BEHALF OF APPLICANT: Self-represented

**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, 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 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 or more misdemeanors in the United States.

On appeal, the applicant asserts that the director's decision is in error as he was not in town on February 24, 2006 for the battery-domestic violence offense. The applicant asserts that the offense occurred on April 8, 2005. The applicant apologizes for the event that led up to his arrest on March 26, 2009. The applicant submits copies of the arrest reports and court documentation for his arrests on April 8, 2005 and March 26, 2009.

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 Federal Bureau of Investigation report dated April 12, 2010, reflects the following offenses in the state of Florida:

1. On April 9, 2005, the applicant was arrested by the Sheriff's Office of Collier County for battery-domestic violence, a violation of Florida Statute 784.03(1)(a)(1).
2. On August 8, 2006, the applicant was arrested by the Sheriff's Office of Collier County for probation violation, a violation of Florida Statute 948.06. The offense occurred on April 21, 2006.
3. On January 3, 2007, the applicant was arrested by the Sheriff's Office of Collier County for probation of violation, a violation of Florida Statute 948.06. The offense occurred on December 27, 2006.
4. On March 26, 2009, the applicant was arrested by the Sheriff's Office of Collier County for making a false report to a police officer, a violation of Florida Statute

316.067, and driving while license is suspended, a violation of Florida Statute 322.34(2)(a).

The record contains court documentation in Case no. [REDACTED] from the Clerk of the Circuit Court of Collier County, indicating that on February 24, 2006, the applicant pled no contest to violating Florida Statute 784.03(1)(a)(1), a misdemeanor of the first degree. The applicant was placed on probation for one year and ordered to pay a fine. On April 21, 2006, the applicant violated the terms of his probation. On or about August 8, 2006, the applicant was arrested for violation of probation. On September 5, 2006, the applicant was found guilty of violating Florida Statute 948.06 and probation was continued to February 24, 2007. On December 27, 2006, the applicant violated the terms of his probation. On or about January 3, 2007, the applicant was arrested for violation of probation. On November 13, 2007, the applicant was found guilty of violating Florida Statute 948.06 and probation was revoked; the applicant was sentenced to time served.

On May 11, 2010, the applicant was requested to submit certified court documents for all his arrests. The applicant, in response, provided court documentation for number four above, which indicated that on May 18, 2009, the applicant pled no contest to violating Florida Statute 322.34(2)(a), a misdemeanor of the second degree, and Florida Statute 901.36, and false name/identification given to law enforcement officer, a misdemeanor of the first degree. [REDACTED]

The applicant is ineligible for TPS due to his three misdemeanor convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). 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.

While not the basis for the dismissal of the appeal, it is noted that the record reflects that a Form I-589, Application for Asylum and for Withholding of Removal, was filed on July 7, 2000. A Form I-862, Notice to Appear, was issued and served on the applicant on August 23, 2000. On, April 4, 2001, a removal proceeding was held and the applicant's Form I-589 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 15, 2002, the BIA dismissed the appeal. On July 7, 2009, a Form I-220B, Order of Supervision, was issued that appears to be still in effect.

**ORDER:** The appeal is dismissed.