

*2. Allowing the subject to
maintain family unity
intention of personal privacy*

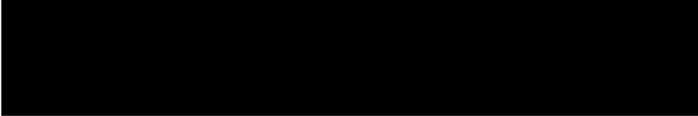
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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

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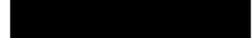


DATE: **JUN 12 2012** Office: NEBRASKA SERVICE CENTER



IN RE: Applicant: 

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

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 Nebraska 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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the Nebraska Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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, Nebraska 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 submits court documentation relating to his arrest for solicitation to commit prostitution. The applicant apologizes for his previous wrongdoing.

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 term 'conviction' means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, adjudication of guilt has been withheld, where - (i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and (ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed. Section 101(a)(48)(A) of the Act.

The Federal Bureau of Investigation report dated March 10, 2010, reveals the following offenses in the state of Florida:

1. On March 20, 2004, the applicant was arrested by the Orange County Sheriff's Office for procure for prostitute.
2. On April 27, 2004, the applicant was arrested by the Orange County Sheriff's Office for procure for prostitute.
3. On January 11, 2009, the applicant was arrested by the Orange County Sheriff's Office for driving with expired license for more than four months.

The record contains the following:

- Court documentation in Case no. [REDACTED] which indicates that on March 22, 2005, the applicant pled *nolo contendere* to violating Florida Statute 796.07(2)(f), solicitation to commit prostitution, a misdemeanor of the second degree. Adjudication of guilt was withheld and the applicant was ordered to pay a fine and court cost and complete an AIDS awareness class.
- Court documentation in Case no. [REDACTED], which indicates that on January 28, 2009, the applicant pled *nolo contendere* to violating Florida Statute 322.03(5), driving while license expired for more than four months, a misdemeanor of the second degree. The applicant was convicted of this offense and was ordered to pay a fine and court cost.

The director, in denying the application, noted that the applicant had not submitted the requested court disposition for his arrest on April 27, 2004. A review of the court documentation in Case no. [REDACTED] however, reflects that this arrest relates to the applicant's earlier arrest on March 20, 2004.

The applicant is ineligible for TPS due to his two 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.

ORDER: The appeal is dismissed.