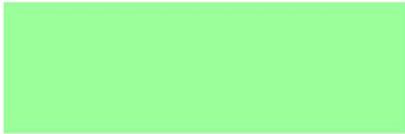


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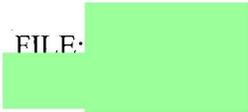
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

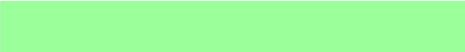


U.S. Citizenship
and Immigration
Services



DATE: **AUG 09 2013** Office: VERMONT SERVICE CENTER



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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting 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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who was granted 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 he had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant asserts that he was never convicted of any of the charges as both cases were dismissed and that all probation programs were successfully completed. The applicant submits the requested court dispositions for his arrests.

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 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 current Federal Bureau of Investigation reflects the applicant's criminal history in the state of Florida as follows:

1. On March 31, 2005, the applicant was arrested by the [REDACTED] Office for failure to appear.
2. On February 6, 2011, the applicant was arrested by the [REDACTED] Police Department for driving under the influence and driving while license is suspended.

In response to the notice issued on August 7, 2012, which requested certified judgment and conviction documents for all arrests, the applicant only provided photocopies of the arrest reports. 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 on October 9, 2012.

On appeal, the applicant submits a photocopy of an Archival Order Form dated October 18, 2012, for Case no. [REDACTED]. The court documentation for this case, however, was not provided on appeal. The applicant also submits:

- Court documentation in Case no. [REDACTED], which indicates that on June 8, 2005, the applicant entered a plea of no contest to expired license more than four months, a violation of Florida Statute 322.03(5), a misdemeanor. Adjudication of guilt was withheld and the applicant was ordered to pay court cost. The remaining charge of operate a vehicle unsafe/improper equipment was dismissed.
- Court documentation in Case no. [REDACTED] which indicates that on October 21, 2011, the applicant entered a plea of guilty and was found guilty of driving under the influence of alcohol – 1st offense, a violation of Florida Statute 316.193(1), a misdemeanor. The applicant was placed on probation for twelve months, ordered to attend DUI school for 30 days and his driver's license was suspended for six months. A *nolle prosequi* was entered for charge of driving while license is suspended and the charge of side window restriction on sunscreen was dismissed.

The applicant's statements on appeal are noted. However, mere compliance with a court order neither alleviates the applicant of any convictions that had occurred nor dismisses any convictions.

In the instant case, the court documents submitted reflect that the applicant pled guilty/no contest to each charge, and the judge ordered some form of punishment, penalty and/or restraint on the applicant's liberty to each charge above. Therefore, for immigration purposes, the applicant has been convicted of misdemeanor offenses within the meaning of section 101(a)(48)(A) of the Act.

The applicant has failed to provide any evidence revealing the final court disposition of his arrest on March 31, 2005, for failure to appear. There is no indication that Case no. [REDACTED] relates to this arrest. The applicant is, therefore, 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 on this ground will be affirmed.

The applicant is ineligible for TPS because he has been convicted of at least two misdemeanors in the United States. 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. Therefore, TPS must be withdrawn on this ground.

(b)(6)

NON-PRECEDENT DECISION

Page 4

The TPS will be withdrawn for the above stated reasons, with each considered as an independent and alternative basis for withdrawal. 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.