



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: JUN 03 2013

Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:  
[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case.

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 in accordance with the instructions on 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,

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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 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 TPS because the applicant had been convicted of two or more misdemeanors in the United States.

On appeal, counsel asserts that the applicant has one misdemeanor conviction because the disposition of June 1, 2001 indicates that the matter was converted to a civil judgment. 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.<sup>1</sup> More than a year later, no additional correspondence has been presented by counsel or the applicant. Therefore, the record must be considered complete.

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.

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 record contains court documents, which reflect the applicant's criminal history as follows:

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<sup>1</sup> 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.

1. On January 29, 2004, in the [REDACTED], [REDACTED], the applicant pled guilty to violating VTL 511.1, operate a motor vehicle while license is suspended/revoked, a misdemeanor. The applicant was ordered to pay a fine and/or was sentenced to serve 15 days in jail as the court document lists "\$100/15D" as the sentence imposed. Case no. [REDACTED]
2. On May 20, 2010, in the [REDACTED], [REDACTED], the applicant was convicted of violating VTL 1192.02, operating a motor vehicle while intoxicated with .08% or more blood alcohol content, a misdemeanor. The applicant was ordered to pay a fine and was placed on probation. Case no. [REDACTED]
3. On June 1, 2011, in the Criminal Division, [REDACTED], [REDACTED], the applicant pled guilty to violating PL 195.05, obstruct governmental administration in the 2<sup>nd</sup> degree, a Class A misdemeanor. The criminal judgment was converted to that of a civil judgment. The applicant was sentenced to time served and ordered to pay court cost and a crime victim fee. Case no. [REDACTED]

The applicant has been convicted of at least two misdemeanors and is ineligible for TPS. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to withdraw TPS 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.