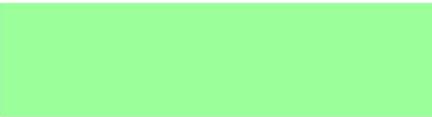


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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090

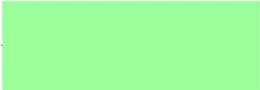


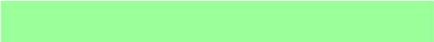
U.S. Citizenship  
and Immigration  
Services



DATE: **MAR 26 2013**

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 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,

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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 she had failed to submit requested court documentation relating to her criminal record.

On appeal, the applicant submitted documents including an additional copy of the court documentation in Case number [REDACTED] from the Clark County District Court of Nevada relating to her guilty plea on January 31, 2006, for attempted theft.

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).

"Felony" means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term actually served, if any. There is an exception when the offense is defined by the state as a misdemeanor and the sentence actually imposed is one year or less, regardless of the term actually served. Under this exception, for purposes of 8 C.F.R. § 244 of the Act, the crime shall be treated as a misdemeanor. 8 C.F.R. § 244.1.

"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 November 3, 2011, reflects the applicant's criminal history in the state of Nevada as:

1. On March 8, 2002, the applicant was arrested under the alias [REDACTED] by the Las Vegas Metro Police Department for burglary, uttering forged instruments and possess/received forged instruments or bills.
2. On September 9, 2005, the applicant was arrested or received under the alias [REDACTED] by the Las Vegas Metro Police Department for felony theft, forgery and burglary with intent to commit felony.

On February 12, 2012, the applicant was requested to submit certified judgment and conviction documents from the courts for all arrests. The applicant, in response, submitted court documentation in Case no. [REDACTED] from the Clark County District Court of Nevada, which indicated that on January 25, 2006, the applicant was charged with attempt theft, a violation of NRS 193.330, 205.0832, 205.0835, Class D felony/gross misdemeanor. On January 31, 2006, the applicant pled guilty to attempt theft, a gross misdemeanor. On March 27, 2006, the applicant was sentenced to the Clark County Detention Center for seven months which was suspended. The applicant was ordered to pay restitution and was placed on probation not to exceed eighteen months. On July 2, 2007, the applicant was discharged from probation.

The director, in his decision of May 10, 2012, indicated that the applicant had failed to address her arrest on September 9, 2005. The director concluded that the applicant did not adequately respond to the notice of February 12, 2012 and withdrew the applicant's TPS.

On January 13, 2013, the AAO sent a notice to the applicant, which advised her that the court documentation in Case no. [REDACTED] related to her arrest on March 8, 2002, and that the arrest on September 19, 2005, for theft, forgery and burglary with intent to commit felony was not mentioned in the court documentation submitted. The applicant was further advised that she had not established that the arrest on September 19, 2005 related to Case no. [REDACTED]

The applicant was afforded 30 days from the date of the notice in which to submit from the Clark County District Court certified documentation addressing the final disposition of her arrest on September 19, 2005. The applicant, in response, provides: 1) an additional copy of her petition which discharged her from probation on July 2, 2007; and 2) a statement on letterhead from the Office of the District Attorney of Las Vegas, Nevada, which indicates that the office has determined at this time not to file formal charges against the applicant for the charges of burglary, uttering forged instruments and possession/receiving forged instrument or bill.

This letter, however, has no probative value and cannot be accepted as it was neither signed nor certified by an official of the Office of the District Attorney.

The applicant has, therefore, failed to provide credible evidence revealing the final disposition of her arrest on September 19, 2005. The applicant is ineligible for TPS because of her failure to

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provide information necessary for the adjudication of her application. 8 C.F.R. § 244.9(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.