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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: NOV 26 2013 OFFICE: CALIFORNIA 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. § 1254a

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
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a citizen of Haiti who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that on March 9, 2010, the applicant filed a TPS application during the initial registration period under receipt number [REDACTED]. The director denied that application on September 10, 2010, because the applicant had two misdemeanor convictions and was ineligible for TPS. On January 19, 2011, the applicant filed another TPS application under receipt number [REDACTED]. The director also denied that application on January 21, 2011, because the applicant was ineligible for TPS due to his two misdemeanor convictions. On March 17, 2011, the applicant filed an appeal from the denial decision. On April 27, 2011, the AAO affirmed the director's denial decision for the reasons stated by the director, noting that the record established that the applicant had two misdemeanor convictions and, therefore, was ineligible for TPS. Accordingly, the AAO dismissed the appeal. On August 24, 2011, the applicant filed a third TPS application under receipt number [REDACTED]. The director denied that application on March 27, 2012, because the applicant was ineligible for TPS due to his two misdemeanor convictions. The director noted, in addition, that the record reflects that the applicant was arrested on February 1, 2006, in [REDACTED] Florida, and charged with Hit and Run, FL 316.061, a misdemeanor, and that he was requested to submit a final court disposition for the arrest but failed to do so. The record does not reflect an appeal of that denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 30, 2012, and indicated that he was re-registering for TPS. The director denied the application because the applicant had not been previously granted TPS as his initial TPS application(s) had been denied and, therefore, he was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

On appeal, the applicant states that he feels that as a Haitian he deserves TPS, and that he needs to work to help his family. The applicant submits court disposition records pertaining to his arrest on February 1, 2006. The court disposition indicates *Nolle Prosequi* in the matter.

The AAO has reviewed all of the evidence, and has made a *de novo* decision based on the record and the AAO's assessment of the credibility, relevance and probative value of the evidence.¹

¹The AAO conducts appellate review on a *de novo* basis. The AAO's *de novo* authority is well recognized by the federal courts. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. As noted above, however, the applicant is ineligible for TPS due to his two misdemeanor convictions. It is clear from the record that the applicant has two misdemeanor convictions and remains ineligible for TPS. For this reason, the application must be denied. Therefore, no purpose would be served in considering the current TPS application as a late initial application for TPS.

An alien applying for temporary protected status 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.