



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **OCT 04 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,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The re-registration application was denied by the Director, California Service Center. The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a 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 re-registration application because she found that the applicant had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant submits the requested court documentation. The applicant asserts, "I did not use that passport with a bad intention but to come the United States." The applicant requests that his application be reconsidered and approved.

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.

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 reflects that on or about December 22, 2008 at the Fort Lauderdale/Hollywood International Airport (Broward County, Florida), the applicant presented a passport issued and designed for the use of another individual in an attempt to gain entry into the United States. The applicant was subsequently charged with misuse of passport, a violation of Title 18, U.S.C. § 1544.

On April 23, 2013, the director issued a notice requesting the applicant to submit certified judgment and conviction documents from the courts for all arrests. In response, the applicant provided a booking/arrest report from the [REDACTED] Sheriff's Office, a copy of a Certificate of Termination from Supervise Release/Probation dated April 13, 2012, a drug testing laboratory report dated January 25, 2011, and a Form I-220B, Order of Supervision, dated July 10, 2009.

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and denied the application on May 23, 2013.

On appeal, the applicant submits court documentation in Case no. [REDACTED] from the United States District Court, Southern District of Florida, which indicates that on June 24, 2009, the applicant pled guilty to one count of willfully and knowingly using or attempting to use the passport belonging to another, a violation of Title 18, U.S.C. § 1544, a felony. The applicant was sentenced to time served, placed on supervised release for two years and ordered to pay \$100 in penalty assessment.

The applicant is ineligible for TPS due to his felony conviction. 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. 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.