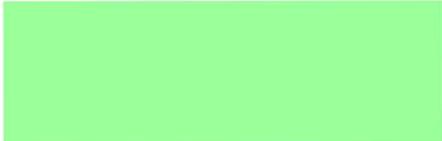


(b)(6)

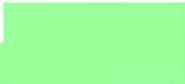
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

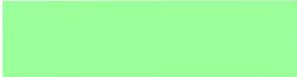


U.S. Citizenship
and Immigration
Services



DATE: **FEB 10 2014** Office: CALIFORNIA 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. § 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DISCUSSION: The applicant's Temporary Protected Status was withdrawn and an application for re-registration was simultaneously denied by the Director, California Service Center. The applicant has appealed the denial of the re-registration application and the matter is now before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a native and citizen of Haiti 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 denied the re-registration application because the applicant had been convicted of two misdemeanors in the United States.

On appeal, the applicant asserts that he is submitting evidence from the court indicating that both cases were dismissed. The applicant requests that his TPS be reinstated as he has a family to support.

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.

On April 19, 2013, the applicant was requested to submit certified judgment and conviction documents from the courts for all arrests. The record contains the following from the County Court in and for [REDACTED] Florida:

1. Court documentation in Case no. [REDACTED] which indicates that on August 26, 2010, the applicant entered a plea of no contest to expired license more than four months, a violation of Florida Statute 322.03(5), driving while license is suspended, a violation of Florida Statute 322.34(2), both misdemeanors, and operate vehicle with unsafe/improper equipment, a violation of Florida Statute 316.610, an infraction. The applicant was adjudged guilty of violating Florida Statute 322.03(5) and was ordered to pay court cost and was placed on

probation for six months. Adjudication of guilt was withheld on the remaining charges and the applicant was ordered to pay court costs.

2. Court documentation in Case no. [REDACTED] which indicates that on March 3, 2010, the applicant pled nolo contendere 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.
3. Court documentation in Case no. [REDACTED] which indicates that on December 1, 2009, 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, and to an infraction offense of driving too fast for conditions. Adjudication of guilt was withheld and the applicant was ordered to pay court costs. The remaining offenses (fail to display vehicle registration and proof of insurance) were dismissed.

Contrary to the applicant's assertion on appeal, the above convictions have not been dismissed by the court(s). Except for the two infraction offenses in Case no. [REDACTED] the court documents submitted reflect that the applicant pled no contest/nolo contendere to each charge, and the judge ordered some form of 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 is ineligible for TPS due to his misdemeanor convictions. 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 re-registration 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.

Finally, while not the basis for the dismissal of this appeal, it is noted for the record that a hearing was held on July 26, 2004 and the applicant was ordered removed from the United States. A Form I-205, Warrant of Removal/Deportation, was issued on December 1, 2009. On December 11, 2009, a Form I-220B, Order of Supervision, was issued that appears to be still in effect.

ORDER: The appeal is dismissed.