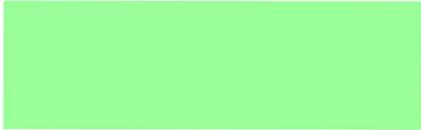




U.S. Citizenship
and Immigration
Services

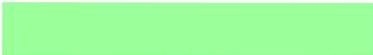
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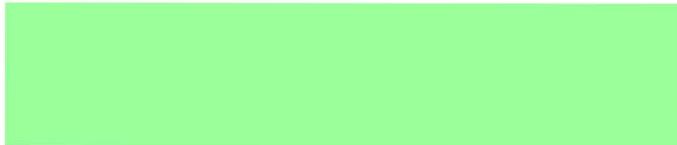
Office: NEBRASKA SERVICE CENTER

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:

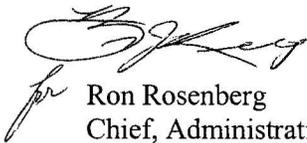


INSTRUCTIONS:

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, Nebraska 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 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 he found the applicant inadmissible under section 212(a)(2)(A)(i)(II) of the Act due to his drug-related conviction. The director noted that in a notice dated April 12, 2013, the applicant was requested to submit evidence to establish he was in possession of 30 grams or less of marijuana at the time of his arrests and sentencing, and to submit an Application for Waiver of Grounds of Inadmissibility (Form I-601) with appropriate fee or fee waiver request.

On appeal, counsel asserts that the applicant has sought a waiver of inadmissibility for conviction of simple possession of marijuana. Counsel states that the applicant submitted a Form I-601, together with a request for a fee waiver, Form I-912, which has not yet been adjudicated.

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.

An alien is inadmissible if he has been convicted of, or admits having committed, or admits committing acts which constitute the essential elements of a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 USC § 802). Section 212(a)(2)(A)(i)(II) of the Act.

The record contains court documentation in Case NYSID no. [REDACTED] (Docket # [REDACTED]), from the Criminal Court of the City of New York, County of Richmond, which indicates that on [REDACTED], the applicant pled guilty to violating New York Penal Law § 221.05, and was found guilty of possession of marijuana-1st offense, a misdemeanor. The applicant was ordered to pay a \$100.00 fine.

The applicant is inadmissible to the United States under section 212(a) (2)(A)(i)(II) of the Act because he has been convicted of a drug-related offense. For a conviction that involves simple

possession of less than 30 grams of marijuana, there is a waiver available for this ground of inadmissibility. As noted above, the applicant was requested to submit evidence to establish the amount of marijuana in his possession at the time of his arrest; however, he failed to do so and he does not address this issue on appeal.

Therefore, the director's decision to deny the re-registration application is 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, it is noted for the record that the Form I-601 submitted on appeal has not been adjudicated.

ORDER: The director's decision is affirmed. The appeal is dismissed.