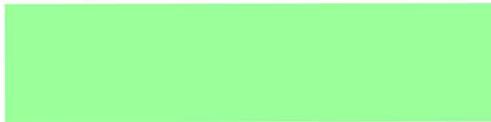


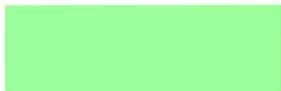


U.S. Citizenship  
and Immigration  
Services

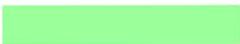
(b)(6)



DATE: JAN 17 2014 Office: VERMONT SERVICE CENTER



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 (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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn and an application for re-registration was simultaneously denied by the Director, California Service Center.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 claims to be a native and 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 the applicant had been convicted of at least two misdemeanors in the United States.

On appeal, the applicant describes the circumstances leading up to his arrest and/or court appearances. The applicant states that he has been arrested only once by the police; the other times he was charged with "minors." The applicant submits court documentation relating to his arrest for trespassing on January 11, 2012 and resubmits the arrest report and court disposition relating to his misdemeanor conviction on August 22, 2005. 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).

"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.

Section 101(a)(48)(B) of the Act provides, "any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part."

The record contains the following from the Criminal Division of the Circuit Court of the

1. Court documentation in Case no. [REDACTED] which indicates that on August 22, 2005, the applicant pled guilty to resisting officer without violence, a violation of Florida Statute 843.02, a misdemeanor of the first degree. The applicant was sentenced to serve three days in the county jail and ordered to pay a fine. A *nolle prosequi* was entered for the charge of driving while license is suspended.
2. Court documentation in Case no. [REDACTED] which indicates that on August 15, 2006, the applicant was found guilty of violating Florida Statute 322.03(5), driving while license has been expired for more than four months, a misdemeanor of the second degree. The applicant was ordered to pay a fine and/or court cost.
3. Court documentation in Case no. [REDACTED] which indicates that on July 16, 2008, the applicant was found guilty of violating Florida Statute 322.03(5), driving while license has been expired for more than four months, a misdemeanor of the second degree. The applicant was ordered to pay a fine and court cost.
4. Court documentation in Case no. [REDACTED] which indicates that on April 7, 2009, the applicant was found guilty of violating Florida Statute 322.03(5), driving while license has been expired for more than four months, a misdemeanor of the second degree. The applicant was ordered to pay a fine and court cost.
5. Court documentation in Case no. [REDACTED] which indicates that on November 3, 2009, the applicant was found guilty of violating Florida Statute 322.03(1), no driver's license, a misdemeanor of the second degree. The applicant was ordered to pay a fine and/or court cost.
6. On January 11, 2012, the applicant was arrested and subsequently charged with trespassing after warning, a violation of Florida Statute 810.09(2)(b). On February 12, 2012, a *nolle prosequi* was entered on this charge. Case no. [REDACTED]

The maximum penalty for a conviction of a misdemeanor of the second degree is imprisonment for a period of not more than 60 days in jail or by a fine of not more than \$500, or both such fine and imprisonment. The maximum penalty for a conviction of a misdemeanor of the first degree is imprisonment for a period of not more than a year or by a fine of not more than \$1000, or by both such fine and imprisonment. See Florida statutes 775.082(4) and 775.083(1).

As cited above, for immigration purposes, a misdemeanor is any offense that is punishable by imprisonment for a term of one year or less, *regardless of the term such alien actually served, if any*. (Emphasis added.) Therefore, the offenses listed above qualify as "misdemeanors" as defined for immigration purposes in 8 C.F.R. § 244.1.

In the instant case, the court documents reflect that the applicant pled guilty and/or was found guilty of violating Florida Statutes 843.02, 322.03(5) and 322.03(1), and the judge ordered some form of punishment or penalty to each charge. Therefore, for immigration purposes, the

applicant has been convicted of the misdemeanor offenses within the meaning of section 101(a)(48)(A) of the Act.

The applicant's statements made on appeal have been considered. The director, however, 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).

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.

**ORDER:** The appeal is dismissed.