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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: JUL 01 2014

Office: VERMONT 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. § 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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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

On December 18, 2013, the director withdrew TPS because: 1) the applicant failed to submit a properly completed Form I-821, Application for Temporary Protected Status; because he failed to answer all the questions; and because he failed to provide written explanation of his answer(s) and/or evidence of the final disposition(s) of any arrest(s).

An alien shall not be eligible for TPS 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. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

The director 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. Section 244(c)(3)(A) of the Act and 8 C.F.R. § 244.14(a)(1).

"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 Form I-821 states, at Part 4, Eligibility Standards, Question 2, that:

If any of the questions beginning below on this page and continuing on Page 3, 4, and 5, apply to you, describe the circumstances and include a full explanation

on a separate sheet(s) of paper. Use the number 2 before each letter referring to the specific question (2a, 2b, etc.).

At the time of completing the re-registration application [REDACTED] the applicant did not answer the following questions at Part 4:

2f. Have you within the past ten years, engaged in prostitution or procurement of prostitution or do you continue to engage in prostitution or procurement of prostitution?

2g. Have you been or do you intend to be involved in any other commercial vice?

2h. Have you been excluded and deported from the United States within the past year, or have you been deported or removed from the United States at government expense within the last five years (20 years if you have been convicted of an aggravated felony)?

Part 4, Question 2q, asks Have you EVER:

...

(ii) served in any prison, jail, prison camp, detention facility, labor camp, or any other situation that involved detaining persons?"

At the time of completing the re-registration application for question 2q (ii), the applicant indicated "YES."

On September 20, 2013, the applicant was informed that the Form I-821, Application for Temporary Protected Status, submitted for re-registration was incomplete as he failed to answer the questions at 2f, 2g, and 2h and had indicated yes at 2q(ii). The applicant was advised to submit a written explanation to question 2q(ii) and complete the Form I-821 along with his original signature. The applicant was also advised that if he had been arrested, he was to provide certified judgment and conviction documents from the courts for all arrests. The applicant was given 33 days to submit a completed Form I-821. On December 18, 2013 the director withdrew TPS because it was determined that the applicant had failed to respond to the notice of September 20, 2013.

On appeal, the applicant apologizes for not responding to the notice of September 20, 2013. Regarding questions 2f-2h on the Form I-821, the applicant answers "No". Regarding question 2q(ii), the applicant indicates that on July 4, 2006, he was "pulled over by a police officer" for driving without a license and driving under the influence; that on November 6, 2006, he was sentenced to three months at a rehabilitation center and was released on February 16, 2007, and that he does not have any other alcohol related incidents.

On appeal, the applicant provides court documentation from the District Court of Maryland for [REDACTED] (Case no. [REDACTED]) regarding a violation that occurred on “July 3, 2005” for driving without a license. However, the applicant did not provide the court documentation regarding his arrest on July 4, 2006 for driving while under the influence.

On May 9, 2014, the AAO sent a letter to the applicant informing him of his failure to submit the requested court documentation for his arrest on July 4, 2006. The applicant was afforded 30 days to submit either certified court documents from the court or a certified letter from the State’s Attorney’s Office outlining the final disposition of the driving while under the influence offense. To date, the requested documentation has not been received.

The applicant has failed to provide any evidence revealing the final court disposition of his arrest detailed above. The applicant is ineligible for TPS because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Consequently, the director’s decision to withdraw TPS 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.