



U.S. Citizenship
and Immigration
Services

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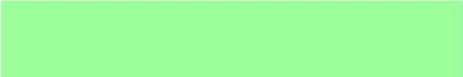
DATE: JUN 10 2014

Office: VERMONT 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: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. 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.

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be granted and the appeal will be sustained.

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.

The record reflects:

1. On March 8, 2002, the applicant was arrested under the alias [REDACTED] by the Las Vegas Metro Police Department for burglary, uttering forged instruments and possess/received forged instruments or bills.
2. On September 19, 2005,¹ the applicant was arrested or received under the alias [REDACTED] by the Las Vegas Metro Police Department for felony theft, forgery and burglary with intent to commit felony.

On May 10, 2012, the director withdrew the applicant's TPS because the applicant had neither addressed nor presented the requested court documentation for her September 19, 2005 arrest. The AAO, in a notice dated January 13, 2013, advised the applicant that the court documents in the record related to her arrest on March 8, 2002, and that there was no mention of her subsequent arrest on September 19, 2005. The AAO, in dismissing the appeal on March 26, 2013, concurred with the director's findings as the February 12, 2013 letter from the Office of the District Attorney, Las Vegas, Nevada had no probative value as it was neither signed nor certified by an official.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

On motion, the applicant re-submits certified court documents (information, guilty-plea agreement, minutes and judgment of conviction) in Case no. [REDACTED] from the Clark County District Court of Nevada. The information indicates that the applicant had committed the crime of attempt theft "on or about the 1st day of March 2002"; that the guilty plea agreement filed in open court on January 31, 2006, indicates that the applicant pled guilty to attempt theft; and that the applicant was adjudged guilty of attempt theft, a gross misdemeanor, on March 27, 2006. The applicant also submits:

- An additional statement dated April 8, 2013 on letterhead from the Office of the District Attorney, Las Vegas, Nevada which referred to the applicant's arrest on or about March 8, 2002. The letter indicated that the office has determined at this time

¹ In our dismissal notice, the date of arrest was inadvertently listed as September 9, 2005.

not to file formal charges against the applicant for the charges of burglary, uttering forged instruments and possession/receiving forged instrument or bills.

- An additional letter dated April 8, 2013, from the Las Vegas Police Department for a request for records check.

Although the letter from the Office of the District Attorney of Las Vegas, Nevada is an original, it was neither signed nor certified by an official. The letter also contradicted the applicant's "guilty plea" in Case no. [REDACTED]. Accordingly, on May 29, 2014, the AAO contacted the Office of the District Attorney, Clark County, Nevada and was informed by a representative that the above letter was authentic, that no charges were filed, that no case was pending against the applicant at that time, and that "it never left the office."

The record also contains a pre-sentence report from the Nevada Department of Public Safety, Division of Parole and Probation for Case no. [REDACTED]. Specifically, the report indicates that the applicant was in custody under a bench warrant on "September 19, 2005."

This report coupled with the information from the representative for the Office of the District Attorney is sufficient to support a finding that the arrests of March 8, 2002 and September 19, 2005 relate. The evidence of record reflects that the applicant has one misdemeanor conviction, and it does not render her ineligible for TPS under the provisions of section 244(c)(2)(B)(i) of the Act and the related regulations in 8 C.F.R. § 244.4(a). There are no other known grounds of ineligibility. Therefore, the director's decision to withdraw the applicant's TPS and the AAO's decision affirming the director's finding will be withdrawn, and the applicant's TPS will be reinstated.

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 met this burden.

ORDER: The motion is granted and the appeal is sustained. The decisions of the director dated May 10, 2012 and of the AAO dated March 26, 2013 are withdrawn.