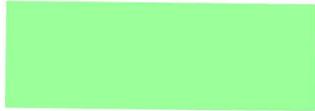




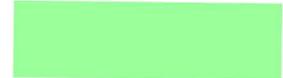
U.S. Citizenship
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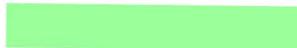


DATE: OCT 14 2014

Office: VERMONT SERVICE CENTER

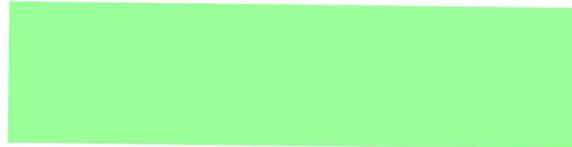


IN RE: Applicant:



APPLICATION: Application for Temporary Protected Status under Section 244 of the
Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.

Thank you,

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 on appeal. 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. On October 18, 2013, the director withdrew TPS because the applicant had failed to submit requested court documentation relating to his criminal record.

On appeal, counsel submits the requested court dispositions.

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. 8 C.F.R. § 244.14(a)(1).

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 Federal Bureau of Investigation report reflects that on November 11, 2011, the applicant was arrested by the Sheriff's Office in [REDACTED] Louisiana for operating a vehicle while intoxicated, reckless operation of vehicle, driver not licensed, open alcohol container in vehicle, renewal registration (expired license plate) and non-residential vehicle for business (failure to register car in Louisiana).

On July 10, 2013, the applicant was requested to provide certified judgment and conviction documents from the court for all arrests. The applicant, however, failed to submit the required court documents. Accordingly, the director withdrew TPS.

On appeal, counsel submits court documentation in Case no. [REDACTED] from the [REDACTED] Court, [REDACTED] Louisiana, which indicates that on June 11, 2013, the applicant pled guilty to driving while intoxicated – BAC 0.20% or more, a violation of LRS 14:98(A)(B)(2)(b), a misdemeanor. The applicant was sentenced to serve 60 days in jail, ordered to pay a fine and court costs and was placed on probation for 18 months. The remaining offenses were dismissed.

The applicant has one misdemeanor conviction for violating LRS 14:98(A)(B)(2)(b), and it does not render him ineligible for TPS under the provisions of section 244(c)(2)(B)(i) of the Act and the related regulation in 8 C.F.R. § 244.4(a). The applicant has overcome the sole basis for the withdrawal of TPS. There are no other known grounds of ineligibility. Therefore, the director's decision to withdraw TPS will, itself, 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 appeal is sustained.