



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: SEP 16 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.

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 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 November 8, 2013, the director withdrew TPS because it was determined that the applicant had failed to respond to the notice dated July 23, 2013, which requested court documentation relating to her arrest on October 17, 2010, by the [REDACTED] Police Department for threaten crime with intent to terrorize, a violation of California Penal Code section 422.

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).

On appeal, the applicant asserts that she had submitted a response to the director's notice dated July 23, 2013. To support her assertion, the applicant submits a PS Form 3800, Certified Mail Receipt, and a PS Form 3811, Domestic Return Receipt, from the U.S. Postal Service, which indicate that correspondence was mailed on August 5, 2013 and was delivered to the address of the Vermont Service Center on August 9, 2013.

To date, the record does not contain the response received on August 9, 2013.

On appeal, the applicant also submits a letter dated October 1, 2013, from a representative of the Office of The City Attorney, [REDACTED] California, who indicates that on December 1, 2010, a hearing was held regarding the allegations that the applicant had committed a violation of California Penal Code section 422, and that the matter was resolved and no criminal charges were filed against the applicant.

The applicant has submitted contemporaneous evidence on appeal to overcome the notice of July 23, 2013. As there are no other known grounds of ineligibility, the director's decision to withdraw the applicant's TPS will, itself, be withdrawn.

The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the withdrawal of the initial application has been withdrawn, the director's decision on the re-registration application will also be withdrawn.¹

¹ Although no decision was found in the record, U.S. Citizenship and Immigration Services records reflect that the re-registration application [REDACTED] was denied on November 6, 2013.

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.