



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **MAR 25 2015**

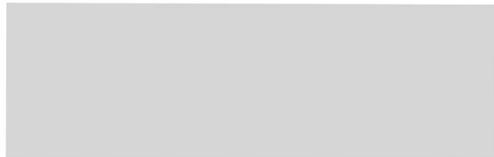
Office: VERMONT SERVICE CENTER

FILE:

IN RE: Applicant:

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

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. 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,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Acting Center Director, Vermont Service Center. The matter is now before the Administrative Appeals Office 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 January 16, 2014, the director withdrew TPS because the applicant failed to submit requested court documentation relating to her criminal record.

On appeal, the applicant contends that she has been convicted for only one misdemeanor offense of Prostitution and that charges for Sex Offense and Operating Vehicle Never Receiving License were dismissed. The applicant further asserts that since she has only one misdemeanor conviction she is still eligible for Temporary Protected Status.

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. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

"Felony" means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term actually served, if any. There is an exception when the offense is defined by the state as a misdemeanor and the sentence actually imposed is one year or less, regardless of the term actually served. Under this exception, for purposes of section 244 of the Act, the crime shall be treated as a misdemeanor. 8 C.F.R. § 244.1.

"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 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.

An alien is inadmissible if he has been convicted of a crime involving moral turpitude (other than a purely political offense), or if he admits having committed such crime, or if he admits

committing an act which constitutes the essential elements of such crime. Section 212(a)(2)(A)(i)(I) of the Act.

The record shows the applicant has the following arrests:

- 1) [REDACTED], 2008, for Prostitution, by Metropolitan Police Department, [REDACTED] Tennessee.
- 2) [REDACTED] 2011, for Sex Offense, by FBI, [REDACTED] Indiana.
- 3) [REDACTED] 2012, for Operating Vehicle Never Receiving License, by Metropolitan Police Department, [REDACTED] Indiana.

The record reflects that on January 11, 2012, the applicant filed for TPS re-registration, and on July 26, 2013, the acting director issued a notice requesting the applicant to submit certified judgment and conviction documents for all arrests. In response, the applicant submitted evidence of a final disposition for her arrest on [REDACTED] 2012, for Operating Vehicle Never Receiving License by the [REDACTED] Metropolitan Police Department in Indiana, with the charge dismissed. The record also shows, and the applicant admits, that in the Metropolitan General Sessions Court of [REDACTED] Tennessee, she was convicted of a misdemeanor offense of Prostitution on [REDACTED] 2008. However, the applicant failed to submit documentation clearly showing a disposition for her [REDACTED] 2011, arrest for Sex Offense in Indiana. The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and denied the application.

On appeal, the applicant contends that the Sex Offense arrest resulted in a dismissal and submits an electronic database printout from the Justice Information System of [REDACTED]. This printout, however, is not sufficient as it does not clearly indicate the final disposition of the applicant's arrest. The director, in the notice of July 26, 2013, specifically requested the applicant to submit certified judgment and conviction documents from the courts. The applicant has failed to provide any evidence revealing the final court disposition of this arrest. The applicant is ineligible for TPS because of her failure to provide information necessary for the adjudication of her 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.