



U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**



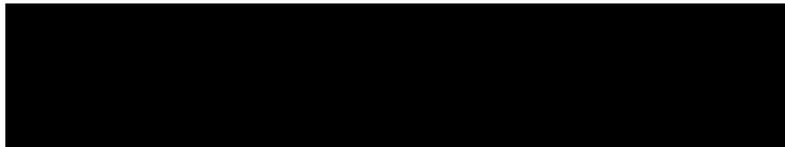
M1

FILE: [REDACTED]  
[WAC 05 053 71084]

OFFICE: California Service Center

DATE: SEP 06 2007

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:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC). It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

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

The record shows that the applicant filed an initial Form I-821, Application for Temporary Protected Status, at the Texas Service Center (TSC) on June 1, 1999 [SRC 99 186 53517]. On March 30, 2002, the TSC Director sent the applicant a notice of intent to deny (NOID) in which it referred to a background check conducted by the Federal Bureau of Investigation (FBI) revealing that the applicant had been arrested on April 13, 2000, by the police department in Metropolitan Dade County (Florida) on a charge of aggravated battery. According to the FBI report in the record, the charge is classified under Florida law as a second degree felony. The applicant was requested to submit documentary evidence of the disposition of his arrest, such as a written confirmation from the police department if the charge was dropped or, if the charge was not dropped, the final court disposition showing the sentence imposed. The applicant was advised to furnish the requested evidence within 30 days.

When the applicant did not respond to the NOID, the TSC Director denied the application on June 14, 2002, for failure of the applicant to establish that he had not been convicted of a felony committed in the United States, as required for him to be eligible for TPS under section 244(c)(2)(B)(i) of the Act.<sup>1</sup> No appeal was filed on the denial of the initial application.

The applicant filed the current Form I-821 [WAC 05 053 71084] on November 22, 2004, and indicated that it was an application for re-registration of TPS. The application was electronically referred to the California Service Center (CSC).

On July 23, 2005, the CSC Director denied the re-registration application on the ground that the applicant's initial TPS application had been denied, thereby making him ineligible to re-register for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. See 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the CSC Director's decision to deny the application will be affirmed.

An alien applying for Temporary Protected Status 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 that burden.

---

<sup>1</sup> While the FBI report contains an entry indicating that proceedings against the applicant were terminated on March 21, 2001 with a disposition of "nolle prossed," it is incumbent upon the applicant to submit the documentary proof requested in the NOID – *i.e.*, written confirmation from the police department or the final disposition from the court, depending on which institution decided the matter.

**ORDER:** The appeal is dismissed.