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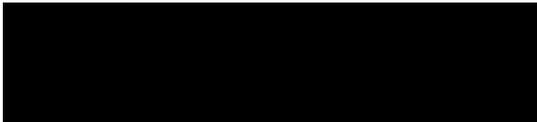
U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
U.S. Department of Homeland Security, 20 Mass, 3/F
425 I Street N.W.
Washington, D.C. 20536



OCT 16 2003

File:

Office: Nebraska Service Center

Date:

IN RE: Applicant:



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

IN BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Cindy N. Gomez
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who indicated on his application that he entered the United States on February 1, 2001, without a lawful admission or parole. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1254, because the documentation submitted was insufficient to establish his eligibility for TPS.

On appeal, the applicant acknowledges the use of an alias, but claims that he only committed a "minor traffic violation." The applicant states that the traffic offense should not rendered him ineligible for the benefit being sought. The applicant requests that his application be reconsidered.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
 - (2) During any subsequent extension of such designation, if at the time of the initial registration period:....

Section 244(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.--

(2) ELIGIBILITY STANDARDS.--

(B) ALIENS INELIGIBLE. - An alien shall not be eligible for

temporary protected status under this section if the Attorney General finds that-

(i) the alien has been convicted of any felony or 2 misdemeanors committed in the United States,.....

"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 FBI record reveals that on May 15, 1999, the applicant was arrested under the alias [REDACTED] by the Los Angeles Police Department (California) for violating section 472 PC, forgery of State, Corporate, and Official Seals. Although the record of conviction is not included in the record, the record does indicate that the applicant was formally removed from the United States at Houston, Texas on October 6, 2000 with a ten year bar to re-entry.

On January 3, 2002, the applicant was advised of the above arrest along with a traffic violation. The applicant was allowed 30 days in which to submit sufficient evidence to overcome the grounds of ineligibility.

The applicant, in response, asserted that he had never been arrested for forgery of seals. The applicant admitted that he was arrested and detained for a minor traffic violation in California in 1998. The applicant stated that he appeared in court for the traffic violation, but on two occasions he was informed by the court that his "name was not on the registry or database for that date." The applicant claimed that the court did not issue him another court date to contest the traffic violation and "I believed that the issue was resolved since I had appeared twice as requested." The applicant asserted that he has minor traffic violations, but never committed any serious crime.

The applicant's May 15, 1999, arrest was obtained from a fingerprint analysis from the Federal Bureau of Investigation records, and is therefore highly reliable.

On appeal, the applicant asserts that he had only one minor traffic violation.

The burden of proof is upon the applicant to provide credible documentary evidence to support his claim that the arrest was dismissed or in error. The applicant has not presented any credible evidence to refute this matter. Likewise, a statement made by the applicant is not affirmative evidence and fails to meet the applicant's burden. Simply going on record without supporting documentation is not sufficient for purposes of meeting the burden

of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). In addition, the applicant claims that he has had "minor traffic violations", but provides no evidence such as a driving history report from the Department Motor Vehicles.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. The applicant's statement, on appeal, does not overcome the adverse evidence in the record. Consequently, the director's decision to deny the application for temporary protected status 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 this burden.

ORDER: The appeal is dismissed.