U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship and Immigration Services

M-1

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: JUL 2 6 2004

IN RE: Applicant: [redacted]

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.

Cindy M. Gomez for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and 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 is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director determined that the applicant had failed to respond to a request for official court documentation concerning a criminal offense committed. The director, therefore, denied the application.

On appeal, the applicant states that the criminal offense she committed on February 13, 2001, has been resolved. She submits additional documents.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General 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:

(i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;

(ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

(iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

Pursuant to section 244(c)(2)(B)(i) of the Act and the related regulations in 8 C.F.R. § 244.4(a), an alien shall not be eligible for temporary protected status if the Attorney General, now the Secretary of the Department of Homeland Security (the Secretary), finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States.

8 C.F.R. § 244.1 defines "felony" and "misdemeanor:"

> *Felony* means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except 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 such alien actually served. Under this exception for purposes of section 244 of the Act, the crime shall be treated as a misdemeanor.
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> *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.
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> For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a felony or misdemeanor.

Section 212(a)(2) of the Act, 8 U.S.C. § 1182(a)(2), provides that aliens inadmissible and ineligible to receive visas and ineligible to be admitted to the United States include:

> (A)(i) Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of...
>
> (I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or...

The record reflects the following:

1. The applicant, under the name of [redacted] was arrested on February 13, 2001, in Los Angeles, California, and charged with burglary. Although the applicant was requested on February 5, 2002, to submit the court's final disposition of this offense, the record of proceeding does not contain the requested court documents.

2. The record contains a copy of a "Court Referral Community Service Program Referral Form" indicating that the applicant was referred to Voluntary Action Center/Volunteer Bureau, Van Nuys, California, on February 15, 2001, based on the applicant's offense of "Theft," under Case No. [redacted] The record further reflects that the applicant was ordered to pay a fine in the amount of $250. The complete court record for this offense is not contained in the record of proceeding, nor is it clear whether this case is related to No. 1 above.

On appeal, the applicant submits the following incomplete court documents:

3. The applicant was arrested on February 7, 2002, in the Commonwealth of Virginia, and charged with the felony offense of hit and run, in violation of 46.2-894, Code of Virginia. Although the applicant furnished incomplete and illegible court documents regarding this offense, the record shows that she was subsequently ordered to pay fines and costs in the amount of $140.

4. A "Summons" issued to the applicant to appear in court on March 12, 2002, to answer to the charge of the misdemeanor offense of "drive upon a highway with a learners permit and not accompanied by a licensed person," in violation of Code of Virginia. Although the applicant furnished incomplete and illegible court documents regarding this offense, the record shows that the applicant was subsequently ordered to pay fines and costs in the amount of $55.

5. Form DC-210, Revocation of Driver's License, indicating that the applicant's driver's license was suspended, effective June 10, 2002, pursuant to Virginia Code § 46.2-395, as a result of the applicant's failure to pay all or part of fines, costs, forfeiture, restitution, and/or a penalty of $192, under Case N The applicant failed to submit the court documents for these cases, nor is it clear whether these cases relate to Nos. 3 and 4 above.

The record reflects that the applicant was arrested for two or more misdemeanors and/or a felony, and may have been convicted for all or some of these criminal acts. However, the applicant has failed to submit legible and complete court dispositions of all her arrests as requested by the director. The applicant is, therefore, ineligible for TPS based on her failure to comply to the director's request to submit the final court dispositions of all her arrests. Accordingly, the director's decision to deny the TPS application will be affirmed.

The burden of proof is upon the applicant to establish that 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. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.