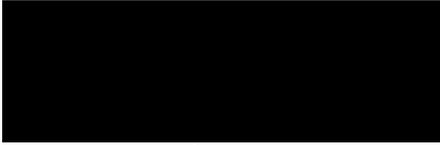




U.S. Citizenship  
and Immigration  
Services

MM



FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

Administrative Appeals Office  
U.S. Citizenship and Immigration Services  
Washington, DC 20529

**DISCUSSION:** The application was denied by the Director, California 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 failed to submit certified court dispositions of his arrests as had been requested. The director, therefore, denied the application.

On appeal, the applicant states that he came to the United States in January 1983. He further states that he was arrested in May 1988 and was put in prison in 1989, and that he was again put in prison for 15 days in 1997. While the applicant indicates that he is sending a brief and/or evidence within 30 days, to date, no additional statement or evidence has been provided.

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.

*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 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 of proceeding contains the Federal Bureau of Investigation (FBI) report listing the applicant's arrests and/or convictions. The applicant, however, failed to submit the court's final dispositions of these arrests, including police clearances from every city he had resided since arriving in the United States, as requested by the director on January 11, 2003:

1. On November 11, 1989, in Los Angeles, California, the applicant was arrested and charged with possess/manufacture/sell dangerous weapons, 12020(A) PC. Although the FBI report shows that the applicant was convicted of this crime, the court's final disposition of this case is not contained in the record of proceeding.
2. On July 31, 1996, in Commerce, California, the applicant was arrested and charged with solicit/conspire to commit insurance fraud. The applicant failed to provide the final court disposition of this offense.

Convictions of the above crimes may render the applicant ineligible for TPS, pursuant to section 244(c)(2)(B)(i) of the Act, based on felony convictions, and may also render the applicant inadmissible to the United States, pursuant to section 212(a)(2)(A)(i)(I) of the Act, based on convictions of crimes involving moral turpitude. The applicant, however, failed to submit the court's final dispositions of these arrests.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The record of proceeding contains a Warrant of Removal/Deportation, Form I-205, issued on December 22, 1997, based on an immigration judge's final order of removal. On January 27, 1998, the applicant was removed from the United States to Honduras. The applicant was advised that in accordance with the provisions of 212(a)(9) of the Act, he was prohibited from entering, attempting to enter, or being in the United States for a period of 5 years from the date of his departure from the United States. The applicant, therefore, appears to be inadmissible to the United States, pursuant to section 212(a)(9) of the Act, as an alien previously removed and had reentered the United States without the consent of the Secretary. Under 8 C.F.R. § 244.3(b), a waiver may be available to the applicant. Therefore, a final determination of inadmissibility will not be made at this time.

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.