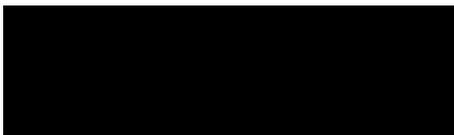


deciding the case based on
provisional status of the applicant
issuance of temporary protection
M1

U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



M1

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: 2/2 02 2015
[WAC 01 224 54492]

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

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 claims to be 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 denied the application because he found that the applicant had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant submits a statement and additional evidence.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 Temporary Protected Status 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.

An alien shall not be eligible for temporary protected status 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. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

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 misdemeanor.

The record reveals the following:

- (1) The Federal Bureau of Investigation fingerprint results report shows that on April 7, 1999, in Los Angeles, California, the applicant was arrested for the felony offense of “spouse beating.”

On February 5, 2004, the applicant was requested to submit the final court disposition of the above arrest. In response, the applicant submitted a letter from the Los Angeles Police Department indicating that the disposition is not available in their files and to contact the Municipal Court in Van Nuys for further information. He also submitted a letter dated February 23, 2004, from the Superior Court of California, County of Los Angeles, Van Nuys, indicating, “no record found for arrest dated 4/07/1999.” On March 23, 2004, the applicant was again requested to provide the final court disposition of this arrest. He was advised to, “Obtain the disposition of the violation from the court where the case was heard...Or, if this case did not go to court, submit a certified copy of the report prepared by the agency that arrested you.” In response, the applicant resubmitted a copy of the February 23, 2004 letter from the Superior Court.

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and denied the application on June 7, 2004.

On appeal, the applicant submits: (1) a letter from the Superior Court of California, County of Los Angeles, Van Nuys, dated June 25, 2004, indicating, “no records found for arrest date 04-07-99;” and (2) a certified letter from the Los Angeles Police Department, dated June 28, 2004, confirming the incarceration dates of the applicant: “Booking Number: [REDACTED] Arrest Date: 4/7/99; Arrest Charge: (F) 273.5(A) PC – inflict corporal injury (spouse/cohabitant); Release Date: 4/9/99; Release Reason: Prosecutor release – detention only.”

Accordingly, it is concluded that the applicant was not convicted of the above offense. However, the record shows the following additional arrest:

- (2) The applicant indicated on Part 4 of Form I-821, Application for Temporary Protected Status, that he was arrested for “driving without license.”

Part 4 of Form I-821 instructs applicants that if any of the statements apply, to include a full explanation on a separate piece of paper, and if arrested, to provide the disposition (outcome) of the arrest from the appropriate authority. While the applicant indicated “2-d DRIVING WITHOUT LICENSE,” he failed to comply with the instructions that he was to submit the disposition of the arrest.

The applicant has failed to provide any evidence revealing the final court disposition of his arrest detailed in No. 2 above. The applicant is ineligible for temporary protected status because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a).

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.