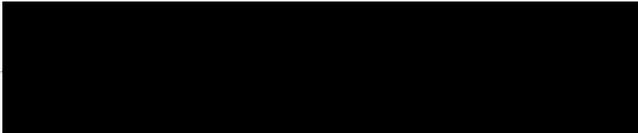


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U.S. Citizenship
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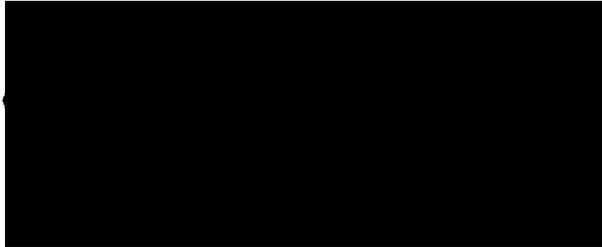
MM

FILE: [REDACTED]
[LIN 02 209 50845]

OFFICE: SEATTLE (SPOKANE)

DATE: AUG 12 2005

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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Seattle, Washington, 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 district director denied the application because the applicant had been convicted of at least three misdemeanors committed in the United States.

On appeal, the applicant asserts that he mentioned everything that he could remember to the person filling out his application, and that he was not at fault for not listing all of his misdemeanor convictions.

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.

An alien is inadmissible if he has been convicted of a crime involving moral turpitude (other than a purely political offense), or if he admits having committed such crime, or if he admits committing an act which constitutes the essential elements of such crime. Section 212(a)(2)(A)(i)(I) of the Act.

The record reveals the following offenses:

- (1) On April 17, 1991, in the Chelan County District Court, State of Washington, Case No. [REDACTED] (arrest date April 16, 1991), the applicant was convicted of hit and run/unattended vehicle, RCW 46.52.010, a misdemeanor. He was sentenced to serve 60 days in jail, and fined \$300.
- (2) On January 29, 1993, in the Douglas County District Court, State of Washington, Case No. [REDACTED] (arrest date January 28, 1993), the applicant was convicted of assault in the 4th degree, RCW 9A.36.041, a misdemeanor. He was sentenced to serve 30 days in jail and fined \$150.
- (3) On January 29, 1993, in the Douglas County District Court, State of Washington, Case No. [REDACTED] (arrest date January 28, 1993), the applicant was convicted of Count 1, assault in the 4th degree, RCW 9A.36.041, a misdemeanor; and Count 2, assault in the 4th degree, RCW 9A.36.041, a misdemeanor. He was sentenced to serve 30 days in jail and fined \$150 as to Count 1, and sentenced to serve 30 days in jail and fined \$150 as to Count 2, concurrent as to all jail time.

The Federal Bureau of Investigation (FBI) fingerprint results report and the Washington State Patrol Identification and Criminal History (WA) report reveal the following arrests and/or convictions in the State of Washington. However, the actual final court dispositions are not contained in the record of proceeding.

- (4) The WA report shows that on February 26, 1982, in Chelan County, the applicant was arrested for driving while under the influence, RCW 46.61.502, a gross misdemeanor. The

report shows that the applicant was convicted of this offense on March 16, 1982 (name used: [REDACTED])

- (5) The WA report shows that on July 9, 1983, in Chelan County, the applicant was arrested for contempt of court, RCW 7.20.020, a gross misdemeanor. The report shows that the applicant was convicted of this offense on July 19, 1983 (name used: [REDACTED])
- (6) The WA report and the FBI report show that on June 22, 1985, in Tukwila, Washington, the applicant was arrested for possession of a stolen property. The reports show that the applicant was subsequently convicted of theft in the 3rd degree, RCW 9A.56.050, a gross misdemeanor, on April 30, 1986 (name used: [REDACTED])
- (7) The FBI report shows that on March 31, 1986, in Seattle, Washington, the applicant was arrested for theft in the 3rd degree.
- (8) The WA report shows that on August 18, 1989, in Lewis County, the applicant was arrested for driving while under the influence, RCW 46.61.502, a gross misdemeanor. The report shows that the applicant was convicted of this offense on August 21, 1989 (name used: [REDACTED])

The applicant is ineligible for TPS due to his record of at least four misdemeanor convictions, detailed in Nos. 1, 2, and 3 above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the district director's decision to deny the application for this reason will be affirmed.

It is noted that Form I-213, Record of Deportable Alien, was issued on June 24, 1985, in Seattle, Washington. On June 23, 1987, the Board of Immigration Appeals ordered proceedings continued indefinitely to accord the applicant an opportunity to apply for legalization under the provisions of section 201 of the Act of 1986.

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.