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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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MAR 07 2005

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE:
[WAC 01 181 55392]

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 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 denied the application because the applicant failed to submit the final court dispositions of all his arrests.

On appeal, the applicant asserts that he could not provide the court disposition of the arrest of February 12, 2001, because the [REDACTED] has no record of this arrest. He requests an additional 30 days in order to obtain official court documents from the court. To date, the file contains no further response from the applicant. Therefore, the record shall be considered complete.

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 offenses:

- (1) On September 26, 1994, in the Municipal Court of Los Angeles, [REDACTED] (arrest date September 22, 1994), the applicant was convicted of driving with .08 percent blood alcohol level or more, 23152(b) VC, a misdemeanor. He was placed on probation for a period of 36 months under the condition that he serve 30 days in the county jail, and pay a total of \$1,207 in fines and costs.
- (2) On September 24, 1996, in the Superior Court of California, [REDACTED] (arrest date August 31, 1996), the applicant was convicted of driving under the influence with [REDACTED] a misdemeanor. He was placed on probation for a period of 60 months under the condition that he be confined in the county jail for 45 days, pay \$1,682 in fines and costs, and driving privileges restricted for a period of 18 months.
- (3) On January 16, 1997, in the Superior Court of California, County of Santa Cruz, Case [REDACTED] the applicant was convicted of driving with suspended or revoked license, [REDACTED]. He was placed on probation for a period of 24 months under the condition that he be confined in the county jail for 6 days, and pay \$334 in fines and costs.
- (4) The records of the California Department of Motor Vehicles, contained in the record of proceeding, shows that on February 26, 1997, the applicant was convicted of driving with suspended or revoked license, [REDACTED] misdemeanor (arrest date February 10, 1997). He was placed on probation for a period of 3 years.

- (5) On February 10, 1998, in Los Angeles, California, the applicant was arrested and charged with Count 1, obtaining aid by fraud, [REDACTED] a felony. The case was dismissed on June 11, 1999.
- (6) The Federal Bureau of Investigation fingerprint results report shows that the applicant was arrested on February 12, 2001, [REDACTED] and charged with [REDACTED]. The applicant failed to submit the final court disposition of this arrest as requested by the director on November 20, 2003.

The applicant is ineligible for TPS due to his record of at least four misdemeanor convictions and because he failed to provide the final court disposition of his arrest detailed in No. 6 above. Section 244(c)(2)(B)(i) of the Act. Consequently, the director's decision to deny the application for this reason will be affirmed.

The record of proceeding contains a Warrant of Removal/Deportation, Form I-205, issued on July 29, 1997, based on a final order of removal by an immigration judge. The applicant failed to appear at the Los Angeles district office on August 29, 1997, for his enforced departure.

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.