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

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FILE: [redacted] OFFICE: CALIFORNIA SERVICE CENTER DATE: [redacted]

[WAC 01 184 53206]

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 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 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.

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.

An alien is inadmissible if he has been convicted of, or admits having committed, or admits committing acts which constitute the essential elements of a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 USC 802). Section 212(a)(2)(A)(i)(II) of the Act.

Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more is inadmissible. Section 212(a)(2)(B) of the Act.

An alien is inadmissible if a consular officer or immigration officer knows or has reason to believe he is or has been an illicit trafficker in any such controlled substance. Section 212(a)(2)(C) of the Act.

The Federal Bureau of Investigation (FBI) fingerprint results report reveals the following offenses in Los Angeles, California:

- (1) On February 4, 1981, the applicant (name used: [REDACTED]) was arrested for theft of personal property.
- (2) On March 18, 1983, the applicant (name used: [REDACTED]) was arrested for selling or transporting marijuana.
- (3) On January 22, 1987, the applicant (name used: [REDACTED]) was arrested for possess or purchase narcotic controlled substances for sale. The FBI report shows that the applicant was subsequently convicted of this offense.

- (4) On May 12, 1987, the applicant (name used: [REDACTED]) was arrested for possession of a narcotic controlled substance. The FBI report shows that the applicant was subsequently convicted of this offense.
- (5) On May 25, 1997, the applicant (name used [REDACTED]) was arrested for possession of a narcotic controlled substance.

Pursuant to a letter dated November 20, 2003, the applicant was requested to: (1) submit evidence to show that he had continuously resided in the United States since February 13, 2001; (2) provide documents to show that he had been continuously physically present in the United States from March 9, 2001, to the date of filing his application; and (3) provide police clearances from every city where he had lived since arriving in the United States; in addition, provide the certified final court disposition of any and all arrests in the United States, including arrests listed on the FBI report (detailed above). He was advised that the final disposition should be obtained from the court where the hearing took place, not from the police station. The director noted that in response, the applicant furnished documentation in an attempt to establish continuous residence and continuous physical presence during the required period; however, he failed to provide police clearances and the final court dispositions of all arrests.

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and denied the application on December 28, 2003.

On appeal, the applicant asserts that the person who was helping him with his TPS application did not inform him that he had to send the police clearance of his arrest or any other document. He submits a work invoice and receipt from the Superior Court of Los Angeles for Case No. [REDACTED] and the police inventory or description of evidence taken from the applicant (cocaine) on February 9, 1989, relating to Case No. [REDACTED]. The applicant, however, failed to submit the final court dispositions of this arrest and other arrests listed in Nos. 1 to 5 above as requested by the director.

The applicant has failed to provide any evidence revealing the final court disposition of his arrests detailed 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). Consequently, the director's decision to deny the application will be affirmed.

The FBI report further shows that the applicant was:

- (1) deported from the United States to El Salvador on August 16, 1977 (file number [REDACTED] 806, [REDACTED] California);
- (2) deported to El Salvador on May 31, 1983 (file number [REDACTED] Los Angeles, California; name used: [REDACTED]);
- (3) deported to El Salvador on February 2, 1988 (file number [REDACTED] Los Angeles, California);
- (4) placed in removal proceedings on May 10, 1989 (file number [REDACTED] San Ysidro, California; name used: [REDACTED]);
- (5) the record of proceeding contains a Warrant of Deportation, Form I-205, issued in Los Angeles, California, on March 1, 1998, based upon a final order of an immigration judge on

September 11, 1992 (file number [REDACTED] Los Angeles, California; names used: [REDACTED]
[REDACTED] and [REDACTED]

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.