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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

decisions are made to
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invasion of personal privacy**

MI

FILE:

[REDACTED]

OFFICE: VERMONT SERVICE CENTER

DATE: OCT 06 2005

[EAC 02 281 50228]

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, Vermont Service Center. The application 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 determined that the applicant was not eligible for TPS due to his criminal record and denied the application on April 30, 2004.

On appeal, the applicant asserts his claim of eligibility for TPS.

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.

In a Notice of Intent to deny dated April 10, 2003, the director requested the applicant submit documentation attesting to final court dispositions stemming from all of his criminal arrests.

The applicant responded to the director's request by submitting a Criminal History Report generated by the Criminal History Systems Board in Massachusetts which revealed the following data:

1. The applicant was arraigned on June 26, 2001 in East Boston District Court on one count of operating a motor vehicle after suspension;
2. The applicant was arraigned on June 26, 2001 in East Boston District Court on one count of compulsory insurance violation;
3. The applicant was arraigned on February 8, 2001 in South Boston District Court on one count of compulsory insurance violation;
4. The applicant was arraigned on February 8, 2001 in South Boston District Court on one count of operating a motor vehicle after suspension;
5. The applicant was arraigned on June 19, 2000 in Boston District Court on one count of assault and battery-domestic; and,
6. The applicant was arraigned on December 12, 1997 in Boston District Court on one count of "sexual cond for fee."

In the Notice of Intent to deny dated October 28, 2003 the director noted that the court dispositions provided by the applicant contained only codes, abbreviations, or numeric citations, and requested that the applicant submit decipherable court dispositions relative to all of his criminal arrests.

The applicant failed to respond to the director's request for evidence.

The director determined that the applicant had failed to respond to the October 28, 2003 Notice of Intent to Deny, and subsequently denied the TPS application on April 30, 2004.

On appeal, the applicant reasserts his claim of eligibility for TPS and asserts that he submitted all the criminal disposition information given to him by the courts. As evidence, the applicant resubmits a copy of the Criminal History Report generated by the Criminal History Systems Board in Massachusetts. This report is not accompanied by any explanation of the codes, abbreviations, and citations.

The applicant has failed to submit sufficient evidence to show that he is eligible for TPS. The document submitted contains only indecipherable codes, abbreviations, and numeric citations. The information establishes what Citizenship and Immigration Services (CIS) already knew, namely, that the applicant had been charged with several crimes, but it falls short of informing CIS of the final disposition. The applicant has failed to provide an easily decipherable disposition in order to allow CIS to ascertain the outcome of each arrest. Consequently, the director's decision to deny the application for this reason will be affirmed.

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.