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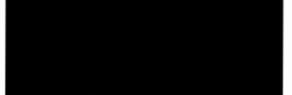
U.S. Citizenship
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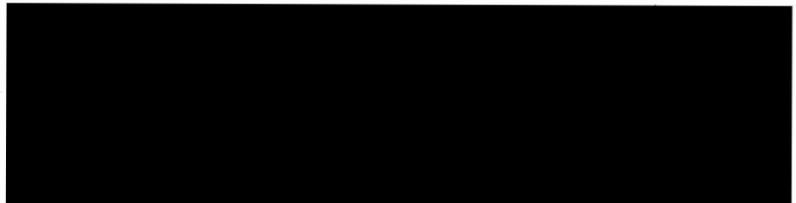
OFFICE: Nebraska Service Center

DATE: JUN 27 2006

[LIN 01 245 54005]

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, Nebraska 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 denied the application because the applicant failed to submit requested court documentation relating to his criminal record. The director also denied the application because the applicant failed to establish his continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant provides some evidence in an attempt to establish his 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.
8 C.F.R. § 244.1.

The record reveals the following offenses in California:

- (1) On March 29, 1992, the applicant was arrested by the Los Angeles Police Department and charged with "F ADW No Firearms/GBI" under the name of [REDACTED] and,
- (2) On June 12, 1994, the applicant was arrested by the Long Beach Police Department and charged with "001 Count of Warrant, inf Corp Inj: Spouse/Cohab", and "001 Count of Warrant, Force/ADW Not Firearm:GBI" under the name of [REDACTED]

Pursuant to a letter dated January 23, 2003, the applicant was requested to submit the final court disposition for the charges detailed above. The applicant was also requested to submit documentation showing whether the charges, if convicted, were classified as felonies or misdemeanors. The applicant was also requested to submit evidence establishing his continuous residence in the United States as of February 13, 2001, and continuous physical presence in the United States from March 9, 2001. The applicant did not respond to the director's request; therefore, the director determined that the applicant had failed to establish his eligibility for TPS and denied the application on April 9, 2003.

On appeal, the applicant provides the following documentation in support of his eligibility for TPS: a copy of a letter dated November 19, 1995, from the Social Security Administration; copies of United States Postal Service Return Receipts dated July 22, 1993; a copy of an earnings statement bearing a check date of December 19, 1997, from Adminiserve, Inc.; a copy of a receipt dated October 19, 2000, regarding his

operator license renewal; a copy of a hand-written receipt dated November 14, 1998; a copy of an earnings statement dated October 2, 1998, from [REDACTED] a copy of his Virginia Identification Card issued on December 12, 1993; a copy of an Employment Authorization document issued on April 10, 1996; a copy of a GTE billing summary dated December 7, 1997; a copy of a receipt notice from the Service dated March 28, 1997; and, copies of receipts from Rent-A-Center dated January 23, 1999.

On appeal, the applicant has not provided any evidence revealing the final court disposition of his arrests as 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). Therefore, the director's decision to deny the application for TPS on this ground is affirmed.

The second issue in this proceeding is whether the applicant has established his qualifying continuous residence and continuous physical presence in the United States.

The evidence submitted by the applicant on appeal pre-date the requisite time periods for continuous residence and continuous physical presence in the United States. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will also be affirmed.

It is also noted that the applicant's asylum application was administratively closed on January 21, 2005.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.