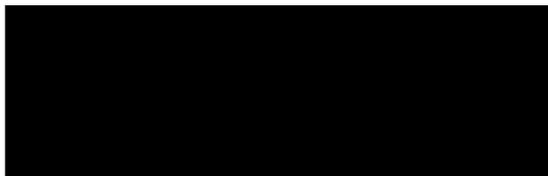




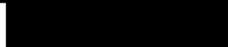
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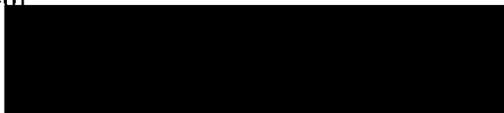
OFFICE: TEXAS SERVICE CENTER

DATE: MAY 30 2006

[SRC 01 196 55646]

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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. The application is now before the Administrative Appeals Office (AAO) 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 she 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.
8 C.F.R. § 244.1.

The record reveals the following offenses:

- (1) On September 30, 2000, the applicant was arrested by the Lawrenceville, Georgia, County Police Department and was charged with:
Charge 1 – DUI – Alcohol – Misdemeanor
Charge 2 – Driving While License Suspended/Revoked – Misdemeanor

Pursuant to a letter dated April 3, 2003, the applicant was requested to submit the final court disposition for each of the charges detailed above. The record does not contain a response from the applicant.

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 29, 2003.

On appeal, the applicant states that he was arrested only on one occasion and not for an aggravated crime. He states that he is submitting the final court dispositions, and would like to have his legal status reexamined. In support of the appeal the applicant submits photocopies of: a Georgia Uniform Traffic Citation, Summons, Accusation/Warning, dated September 30, 2000, charging the applicant with Driving on a Suspended License in violation of Code Section 40-5-121(a); a Georgia Uniform Traffic Citation, Summons, Accusation/Warning, dated September 30, 2000, charging the applicant with DUI, Offense 40-6-391; a partial document dated December 11, 2000, bearing no name, cause number, or other identifying information, indicating a guilty plea, \$500 fine, and 2 day suspended sentence; another copy of his El Salvadoran passport issued by the Consulate General, Dallas, Texas, on February 18, 2003; and, additional payroll documents dated between 1997 and 2003.

Although the applicant maintains that he was arrested only once, the record reflects that on that occasion he was charged with two misdemeanors, *Driving Under the Influence* and *Driving with a Suspended License*. The applicant submitted a summons for each of the charges. He did not however, provide the final court dispositions indicating the results of the proceedings and sentencing guidelines indicating the punishments that could have been imposed if convicted. The partial document indicating a guilty plea, fine, and 2 day suspended sentence does not contain verifiable information linking it to the charges against the applicant.

The applicant has failed to provide any evidence revealing the final court dispositions for the charges 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 for this reason will be affirmed.

Beyond the decision of the director, the applicant has failed to submit sufficient credible evidence to establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The earning statements submitted by the applicant dated between 1997 and 2003, bear four different Social Security numbers, three of which differ from the photocopy of the Social Security card bearing the applicant's name. Some of the payroll statements bear no name. These documents cannot be reliably linked to the applicant. Therefore, he has failed to establish that he has met the requirements under 8 C.F.R. § 244.2 (b) and (c), and the application must also be denied for these reasons.

The application shall 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.