



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
[WAC 01 263 56429]

Office: CALIFORNIA SERVICE CENTER

Date: AUG 13 2007

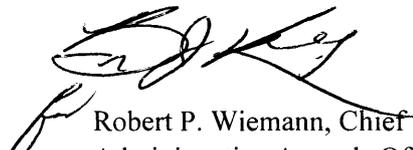
IN RE: Applicant: [REDACTED]

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a 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 record reveals that the applicant filed a TPS application during the initial registration period on August 12, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 263 56429. The Director, California Service Center, denied that application on March 9, 2004, because the applicant failed to respond to a request for evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period. On April 12, 2004, the applicant filed an appeal from the denial decision. The Director, California Service Center reopened the case on April 19, 2004. The director subsequently denied the application again for abandonment on July 30, 2004, because the applicant failed to appear for fingerprinting. However, the record of proceeding reveals that the fingerprint appointment notice was not mailed to the correct address. On May 10, 2005, the applicant filed a TPS re-registration application on May 10, 2005, under CIS receipt number WAC 05 222 73251. On June 27, 2005, the Director, California Service Center denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. On July 25, 2005, the applicant filed an appeal from the denial decision. The Director (now Chief), AAO, reopened the initial application and remanded the case.

On October 4, 2006, the Director, California Service Center determined that the applicant had been convicted of four misdemeanors in the United States. The director, therefore, denied the application.

On appeal, the applicant states that he has matured and has gained wisdom and responsibility and asks that his past behavior be forgiven.

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 designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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:....

Section 244(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.-

(2) ELIGIBILITY STANDARDS.-

(B) ALIENS INELIGIBLE. - An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that-

- (i) the alien has been convicted of any felony or 2 misdemeanors committed in the United States,....

"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:

1. On April 6, 1995, the applicant was arrested by the Wenatchee, California Sheriff's Office for "DWI", "NVOL", "FTA/FTPB-MISD-NVOL", and "FTA/FTPB-MISD-NVOL."
2. On January 21, 1999, the applicant was arrested by the Wenatchee, California Sheriff's Office for "DUI" AND "DWLS/R 3RD."

Pursuant to a letter dated July 25, 2006, the applicant was requested to submit the final court disposition for each of the charges detailed above. In response, the applicant submitted the requested court dispositions. According to the documents provided by the applicant, the following occurred:

1. On, April 17, 1995. the applicant was convicted of "DUI" AND "No Valid Drivers License", both misdemeanors.
2. On February 8, 1999, the applicant was convicted of "DUI" and "DWLS 3RD Degree", both misdemeanors.

The applicant is ineligible for temporary protected status because of his four misdemeanor convictions. 8 C.F.R. § 244.4(a).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. The applicant's statement, on appeal, does not overcome the adverse evidence in the record. Consequently, the director's decision to deny the application for temporary protected status 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.