



U.S. Citizenship
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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

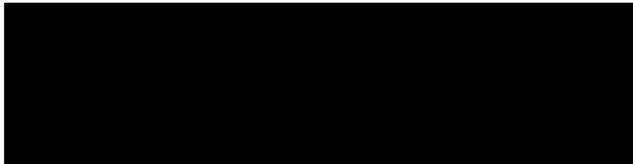
DATE: AUG 13 2007

[WAC 02 041 51996]

[WAC 05 224 83339]

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, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and the case is now before the Administrative Appeals Office on appeal.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 was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on February 14, 2004. The director subsequently withdrew the applicant's TPS status on October 12, 2006, because the applicant had failed to submit court documentation relating to his arrests. Within the same decision, the director denied the applicant's re-registration application, filed on May 12, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 224 83339, also because the applicant had failed to provide the final court dispositions of any and all criminal arrests/convictions.

The director may withdraw the status of an alien granted TPS at any time if it is found that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. Section 244(c)(3)(A) of the Act and 8 C.F.R. § 244.14(a)(1).

On appeal, the applicant submits court and police documents relating to his arrests.

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. 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, 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.

Based on the Federal Bureau of Investigation (FBI) fingerprint results report, the applicant was requested on April 22, 2005, to submit the final court dispositions of all of his arrests, including the arrests listed on the FBI report. In response, the applicant submitted copies of a Booking and Identification Record from the Los Angeles Police Department. Because the applicant failed to submit the final court dispositions of

his arrests, on October 12, 2006, the director withdrew the applicant's TPS status and denied the re-registration application.

On appeal, the applicant submits the following arrest and court records:

- (1) The FBI report indicates that on April 15, 2005, in Los Angeles, California, the applicant was arrested for Count 1, failure to appear after written promise [853.7 PC, a misdemeanor], and Count 2, failure to appear after written promise. On appeal, the applicant submits a letter from the Los Angeles Police Department indicating that the disposition requested for the applicant is not in their files; that Booking No. [REDACTED] is "Court Booking Only for Failure to Appear Warrant [REDACTED] and to contact the Compton Municipal Court, [REDACTED] Compton, CA 90220, for information regarding this disposition. There is no evidence that the applicant contacted the Compton Municipal Court to obtain the final court disposition of this arrest.
- (2) On November 4, 2005, in the Superior Court of California, County of Los Angeles, Case No. [REDACTED] (arrest dated November 2, 2005), the applicant was indicted for Count 1, possession of marijuana/hashish for sale, 11359 H&S, a felony. The court subsequently ordered the complaint amended by interlineation to add the misdemeanor offense of 11357(b) H&S, possession of marijuana, as to Count 2. Also on November 4, 2005, the applicant entered a plea of guilty as to Count 2, the court accepted the plea, and the applicant was convicted of Count 2. He was sentenced to serve 4 days in the county jail, and ordered to pay \$120 in fines and costs. Count 1 was dismissed.
- (3) The FBI report indicates that on December 30, 2005, in Los Angeles, California, the applicant was arrested for "contempt, disobey court order" [166(a)(4) PC, a misdemeanor]. On appeal, the applicant submits the records of the Superior Court of California, County of Los Angeles, indicting that "the arrest that occurred on December 31, 2005 for 166(a)(4) was rejected by the City Attorney's Office (Reject [REDACTED]).

The applicant is ineligible for TPS because he failed to provide the final court disposition of his arrest listed in No. 1 above and, therefore, he has failed to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Additionally, the applicant is inadmissible to the United States under section 212(a)(2)(A)(i)(II) of the Act based on his drug-related conviction (No. 2 above). Sections 244(c)(2)(B)(i) and 244(c)(1)(A)(iii) of the Act. Consequently, the director's decision to withdraw the applicant's TPS and to deny the re-registration application will be affirmed.

It is noted on the FBI report that the applicant had indicated that he was born in California, and that he is a citizen of the United States. Falsely claiming United States citizenship may render the applicant inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act.

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.