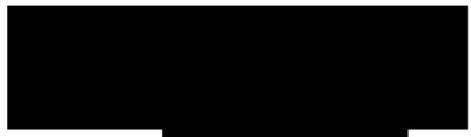




U.S. Citizenship  
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Services

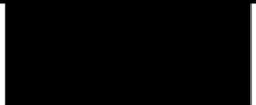
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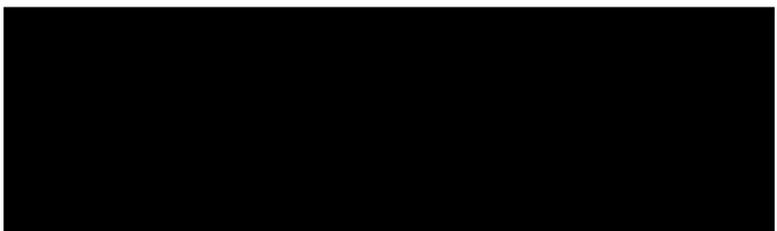
OFFICE: VERMONT SERVICE CENTER

DATE: JAN 05 2007

[EAC 02 208 51500]  
[EAC 05 209 79844]

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:



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**DISCUSSION:** Approval of the initial application was withdrawn, and the re-registration application was denied, by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on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 was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director withdrew approval of the applicant's TPS, and denied the re-registration application, because she found that the applicant had failed to respond to a request for evidence regarding her criminal record.

On appeal, counsel for the applicant submits a brief statement and additional documentation.

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.

The applicant filed her initial Form I-821, Application for Temporary Protected Status, on June 5, 2002. The application was approved on November 21, 2002.

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time if it is determined 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. 8 C.F.R. § 244.14(a)(1).

As a result of being fingerprinted in connection with an application for re-registration for TPS or renewal of her temporary treatment benefits, CIS received a report from the Federal Bureau of Investigation (FBI) indicating that the applicant had been arrested and charged by the Boston Police Department with the following offenses:

- (1) Assault and Battery on August 1, 2002; and,
- (2) Assault and Battery – Injuries on October 10, 2002, under the alias of [REDACTED]

On August 31, 2005, the applicant was requested to submit the final court dispositions of her arrests, specifically identifying the charges and dispositions. The record reflects that the applicant failed to respond to the request. Therefore, on January 12, 2006, the director withdrew the approval of the applicant's TPS.

On appeal, counsel submits an affidavit from the applicant stating that she has never been convicted of a felony or two or more misdemeanor offenses in the United States. Counsel also submits evidence that the charge noted in No. 1, above, was dismissed on April 28, 2003, and documentation from the Commonwealth of Massachusetts, Executive Office of Public Safety, Criminal History Systems Board, indicating that there is no record of any adult criminal court appearances under the name of [REDACTED]

The applicant has failed to provide any evidence concerning the final court disposition of the charge noted in No. 2, above.

The applicant is ineligible for TPS because of her failure to provide information necessary for the adjudication of her application. 8 C.F.R. § 244.9(a). Consequently, the director's decision to withdraw the approval of the applicant's TPS, and to deny the application for re-registration, 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.