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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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[REDACTED]

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JAN 25 2007

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 225 72425]

Date:

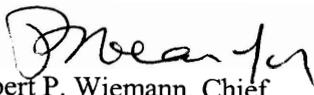
IN RE: Applicant: [REDACTED]

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 claims to be 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 under Citizenship and Immigration Services (CIS) receipt number WAC 01 202 51079. The applicant's Federal Bureau of Investigation (FBI) fingerprint results report revealed the following offenses:

- (A.) On January 26, 2003, the applicant was arrested in Los Angeles, California, and charged with driving under the influence of alcohol.
- (B.) On May 2, 2003, the applicant was arrested in Norwalk, California, and charged with driving under the influence of alcohol, with a blood alcohol content of 0.08% or greater.

On February 28, 2004, the applicant was requested to provide the final court dispositions of the arrests detailed above. The applicant, in response, submitted a photocopy of his Employment Authorization Card and correspondence from the Los Angeles Police Department, Los Angeles, California, informing the applicant that the final court disposition of an arrest could not be provided because the applicant was arrested by the California Highway Patrol, not the Los Angeles Police Department. The applicant did not provide court documents reflecting the final court dispositions of the offenses detailed above. The director denied that application on March 27, 2004, because the applicant failed to provide the final court dispositions of the offenses detailed in Nos. 1 and 2 above. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 13, 2005, and indicated that he was re-registering for TPS.

The director 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.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

Beyond the decision of the director, it is noted that the applicant, on appeal, has provided the final court disposition of the arrest detailed in No. 1 above. The court document indicates that the applicant was arrested in Los Angeles, California, on January 26, 2003, and charged with: (1) driving under the influence of alcohol in violation of section 23152(a) VC, a misdemeanor; (2) driving under the influence of alcohol with a blood alcohol content of 0.08% or greater in violation of section 23152(b) VC, a misdemeanor; (3) hit and run with property damage in violation of section 20002(a) VC, a misdemeanor; (4) driving with a suspended driver's license in violation of section 14601.2(a) VC, a misdemeanor; (5) driving with a suspended or revoked driver's license in violation of section 14601.5(a) VC, a misdemeanor; (6) driving without a valid driver's license in violation of section 12500(a) VC, a misdemeanor; and, (7) failure to provide proof of car insurance in violation of section 16028(a) VC, an infraction. The court noted the applicant had two prior convictions on the charge of driving under the influence of alcohol with a blood alcohol content of 0.08% or greater in violation of section 243152(b) VC, a misdemeanor, the first on August 21, 2002, Case Number [REDACTED] and the second on October 31, 2002, Case Number [REDACTED]. Both previous convictions took place in the Compton Municipal Court Judicial District, County of Los Angeles, State of California. On April 3, 2003, the applicant pled *nolo contendere* to Counts (2), (3), (4), and (7). Counts (1), (5), and (6) were dismissed in the furtherance of justice pursuant to section 1385 PC.¹ The applicant is ineligible for TPS due to his record of three or more misdemeanor convictions, detailed above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). There is no waiver for this ground of ineligibility. Therefore, the application also must be denied for this reason.

It is noted that the applicant was subsequently arrested on January 13, 2006, and charged with driving with a license that had been suspended due to a previous conviction on the charge of driving under the influence of alcohol. This offense must be addressed in any further proceeding before CIS.

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.

¹ It is noted that the applicant was scheduled for surrender in the Metropolitan Courthouse Division, County of Los Angeles, State of California, on May 2, 2003. The applicant was not present in court that day, and was not represented by counsel. It is not clear from examination of the court disposition document whether this date relates to the arrest detailed in (B) above, or whether the arrest detailed in (B) above relates to a separate arrest on the charge of driving under the influence of alcohol with a blood alcohol content of 0.08% or greater.