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U.S. Citizenship
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FILE:



[WAC 05 197 74278]
[SRC 01 171 51376]

Office: CALIFORNIA SERVICE CENTER

Date:

JAN 30 2007

IN RE:

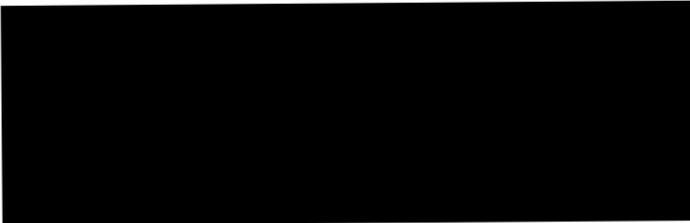
Applicant:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The re-registration application was denied and the TPS status of the applicant was withdrawn by the Director, California Service Center. The application is now before the Administrative Appeals Office 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 his initial TPS application on April 11, 2001, under CIS receipt number SRC 01 171 51376. The Director, Texas Service Center (TSC) approved that application on September 17, 2002.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on April 15, 2005, and indicated that he was re-registering for TPS.

The director denied the instant re-registration application and withdrew the applicant's TPS status.

The director withdrew the applicant's TPS status on April 5, 2006, after determining that the applicant was ineligible for TPS, pursuant to section 244(c)(2)(B)(i) of the Act, based on his past criminal convictions.

Sec. 244.14 Withdrawal of Temporary Protected Status.

(a) Authority of director. The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time upon the occurrence of any of the following: (Amended 11/16/98; 63 FR 63593)

(1) The alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status;(emphasis added)

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).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

On appeal, the applicant, through counsel, provides certified court dispositions from the the Gwinnett County [Georgia] Court which reflect the following:

- 1) On April 21, 2003, the applicant pled guilty to DUI, a misdemeanor. The applicant was sentenced to 12 months in jail, and paid a fine of \$630;

- 2) On April 20, 2004, the applicant pled guilty to DUI, a misdemeanor. The applicant was also sentenced to 12 months in jail, and paid a fine of \$1,000, and;
- 3) On July 21 2004, the applicant pled guilty to "DUI", a misdemeanor.

The record reveals that the applicant had been convicted of three misdemeanors committed in the United States. These convictions served as the basis for the director's April 5, 2006, withdrawal of the applicant's temporary protected status. Therefore, the director's decision to withdraw the applicant's TPS status will be affirmed, and the applicant remains ineligible for TPS.

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.