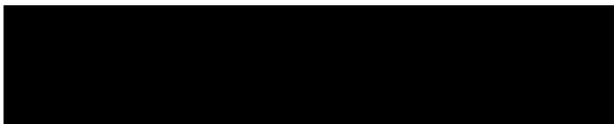




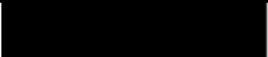
U.S. Citizenship
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invasion of personal privacy

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUL 02 2007

[WAC 05 800 36871]

[WAC 01 186 58805]

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.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn and an application for re-registration was simultaneously denied by the Director, California Service Center, and is now before the Administrative Appeals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 native and 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 March 7, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 800 36871. The Director, California Service Center, denied the application as abandoned on March 7, 2006 because the applicant failed to appear for fingerprinting. On March 28, 2006, the applicant filed a motion to reopen. The Director, California Service Center approved that motion on April 7, 2006.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 16, 2001, and indicated that he was submitting an initial application for TPS.

The director determined that the applicant had been convicted of two misdemeanors in the United States. The director, therefore, denied the application.

On appeal, the applicant admits that he has been convicted twice, and asks that his case be reconsidered.

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 the following offenses:

- (1) On August 30, 1997, the applicant was arrested by the Norwalk, California Sheriff's Office for "Und Inflnce Alchl/Drug inVeh", and "Infl Corp Inj Spouse Cohabitant", a felony.
- (2) On May 14, 2005, the applicant was arrested by the Norwalk, California Sheriff's Office for "Und Inflnce Alchl/Drug und Veh", ".08% More Wght Alchl/Drug Veh", "No Proof of Car Insurance", and "Drive When Known of Susp Lic."

Pursuant to a letter dated August 1, 2006, the applicant was requested to submit the final court disposition for each of the charges detailed above. In response, the applicant provided final court dispositions for two charges. Specifically, the applicant provided final court documentation that reveals the following convictions:

- (3) On June 18, 2004, Case # [REDACTED], the applicant was convicted of "Driving Under the Influence of Alcohol", a misdemeanor.
- (4) On October 7, 2005, Case # [REDACTED], the applicant was convicted of ".08% more weight alcohol drive vehicle", a misdemeanor.

It is noted that the applicant provided a copy of a letter from The Superior Court of California County of Los Angeles which states that no record was found in the applicant's name regarding the charge of "Infl Corp Inj Spouse Cohabitant."

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

The director withdrew temporary protected status because the applicant had been convicted of two misdemeanors. 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.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence since February 13, 2001 and continuous physical presence from March 9, 2001 to the filing date of the TPS application. Therefore, the application must be denied for these reasons as well. It is also noted that although the applicant has submitted a copy of a birth certificate with English translation, the applicant has failed to provide sufficient evidence to establish his nationality and identity.

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.