



U.S. Citizenship
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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: JUL 16 2007
[SRC 01 198 55711]
[WAC 05 211 72478]

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.

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center (VSC), and the case is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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 April 14, 2004. The VSC director subsequently withdrew the applicant's TPS status on July 21, 2006, when it was determined that the applicant had failed to respond to a notice of intent to withdraw (ITW) requesting that he submit the final court dispositions of all of his arrests. Within the same decision, the VSC director denied the applicant's re-registration application, filed on April 29, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 211 72478, because the underlying TPS was withdrawn based on the applicant's failure to timely and/or adequately respond to the ITW.

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 a statement and additional evidence.

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.

Based on the Federal Bureau of Investigation (FBI) fingerprint results report, the applicant was requested on May 16, 2006, to submit the final court dispositions of all of his arrests, including the arrests listed on the FBI report. The applicant failed to respond; therefore, the VSC director withdrew the applicant's TPS status on July 21, 2006.

The record reveals the following:

- (1) On August 21, 2005, in Nashville, Tennessee, the applicant was arrested for Count 1, "accident, leave scene of property damage;" and Count 2, "license, drivers license required." The final court disposition of this arrest is not contained in the record.
- (2) On December 5, 2005, in Nashville, Tennessee, the applicant was arrested for Count 1, "implied consent violation;" and Count 2, "driving under the influence." The final court disposition of this arrest is not contained in the record.

On appeal, the applicant asserts that he is a Salvadoran, he came to the United States on or about August of 2000, and that he does not have a "cedula" because he was under 18 years old when he came here; however, he will send his birth certificate and a notarized letter from a friend. He states that he did not send the evidence requested by the director because he did not have all the information requested. He submits a copy of a Certificate of Training for Alcohol and Drug Safety Course completed on June 1, 2006.

While the applicant asserts that additional evidence is forthcoming, to date, no additional evidence has been provided.

The applicant has failed to provide the final court dispositions of his arrests, detailed in Nos. (1) and (2) above. Therefore, the applicant is ineligible for TPS because of his failure to provide information necessary for the adjudication of his application. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to withdraw the applicant's TPS and to deny the re-registration application will be affirmed.

It is noted that documents contained in the record of proceeding are insufficient to establish that the applicant has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Additionally, although the record of proceeding contains an El Salvadoran birth certificate and English translation, the certificate was not accompanied by photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1).

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.