

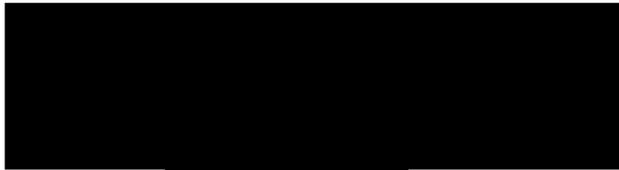
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U.S. Citizenship
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Services

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FILE:



OFFICE: Vermont Service Center

DATE: JUN 14 2007

[WAC 01 166 53234]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied 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 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 director denied the application because the applicant failed to submit requested court documentation relating to her criminal record.

On appeal, the applicant asserts her claim of eligibility for TPS.

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. 8 C.F.R. § 244.1.

A Federal Bureau of Investigation (FBI) fingerprint results report reveals the following:

- (1) On February 22, 1995, the applicant was arrested by the Sheriff's Office, Riverside, California and charged with "Burglary" and "Poss of Stolen;" and,
- (2) On December 7, 1995, the applicant was arrested by the Sheriff's Office, Riverside, California and charged with "Burglary" under the alias of [REDACTED]

Pursuant to letters dated February 25, 2003, and May 30, 2006, the applicant was requested to submit the final court dispositions for the charges detailed above. The applicant was also requested to submit whether any charge, if convicted, was classified as a felony or misdemeanor. The applicant responded to the director's request; however, she failed to provide the requested final court dispositions and conviction documents for all the charges against her. The director, therefore, denied the application on August 15, 2006.

On appeal, the applicant states that she is not able to provide the final court dispositions because no court records were created. She also provides a letter from the Superior Court of California of the County of Riverside indicating that no record or information was found under the name of [REDACTED] and [REDACTED]

A review of the FBI fingerprint results reflects that the applicant was arrested under the alias of [REDACTED], and [REDACTED] (DOB: May 5, 1962). According to the record search provided by the applicant, the names [REDACTED] and [REDACTED] were used, and there was no indication of the applicant's date of birth.

The applicant has failed to provide the necessary information in order to determine her eligibility for TPS with regards to her criminal history.

The applicant is ineligible for temporary protected status because of her failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Therefore, the director's decision to deny the application for TPS is 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.