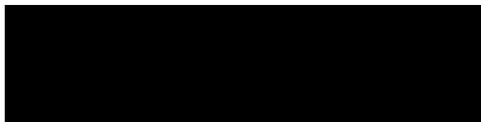




U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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MAR 05 2007

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE:
[WAC 01 170 51228]

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and the case is now before the Administrative Appeals Office on appeal.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 was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on June 3, 2002. The director subsequently withdrew the applicant's temporary protected status on August 8, 2006, after determining that the applicant had failed to provide the requested final court dispositions of all of her arrests to establish that she had not been convicted of a felony or two or more misdemeanors.

It is noted that the applicant filed a second Form I-821, Application for Temporary Protected Status, on January 26, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 118 75060, and indicated that she was re-registering for TPS. The director denied the re-registration application on September 29, 2005, because the applicant had failed to submit the final court dispositions of all of her arrests. The director, in this case, should have withdrawn the applicant's TPS status rather than deny the re-registration application. However, the director ultimately withdrew the applicant's TPS status on August 8, 2006.

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).

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.

The Federal Bureau of Investigation fingerprint results report indicates the following offenses:

- (1) On April 10, 2002, in Los Angeles, California, the applicant (name used: [REDACTED]) was arrested for "hit and run, property damage."
- (2) On May 16, 2003, in Norwalk, California, the applicant was arrested for "theft." The applicant subsequently submitted the records of the Superior Court of California, County of Los Angeles, Case

No. [REDACTED] indicating that on June 13, 2003, the applicant was convicted of "petty theft under \$50," 491.1(a) PC, an infraction.

The director determined that the applicant had failed to submit the final court disposition of her arrest, listed as No. (1) above, and withdrew the applicant's temporary protected status.

On appeal, the applicant submits a letter dated August 16, 2006, from the Superior Court of California, County of Los Angeles, Informal Juvenile and Traffic Court, indicating, "No record of April 10, 2002 violation in this Court" regarding [REDACTED] date of birth October 3, 1983. The letter further indicates that section 203 of the Welfare and Institutions Code states: "An order adjudging a minor to be a ward of the juvenile court shall not be deemed a conviction of a crime for any purpose, nor shall a proceeding in the juvenile court be deemed a criminal proceeding."

It is noted that the applicant was 18 years of age and was not a juvenile on the date of arrest on April 10, 2002. There is no evidence that her case was heard at that juvenile court. Furthermore, at the time of the applicant's arrest, she used the name [REDACTED]. The applicant failed to submit the court record under this name, or under any and all names used by the applicant.

The applicant has failed to provide the final court disposition of her arrest listed in No. (1) above. The applicant is, therefore, ineligible for temporary protected status because of her failure to provide information necessary for the adjudication of her application. 8 C.F.R. § 244.9(a). Accordingly, the director's decision to withdraw the applicant's temporary protected status will be 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.