



U.S. Citizenship
and Immigration
Services

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ML

[REDACTED]

FILE:

[REDACTED]

Office: California Service Center

Date: **MAY 02 2007**

[WAC 05 214 76476]

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. 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, and is now before the Administrative Appeals Office (AAO) 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 an initial TPS application on May 22, 2001 under CIS receipt number SRC 01 215 55061. The director denied that application on January 17, 2006, because the applicant failed to respond to an October 17, 2005 request to submit a final court disposition for a charge of and arrest, on January 1, 2004, for Assault Causes Bodily Injury, and for a charge of and arrest, on February 17, 2005, for F – Prostitution. The director determined that the applicant has been convicted of two or more misdemeanors, and was therefore, is ineligible for TPS. In a subsequent appeal, the Director, AAO, rejected the appeal, as untimely, in a decision issued simultaneously with this decision. The AAO director also noted that the record of proceedings did not contain the final court dispositions for the two arrests.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 2, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application, on May 3, 2006, for the same reasons as stated in the director's denial decision, dated January 17, 2005, discussed above.

On appeal, counsel states that CIS erred in classifying, as misdemeanors, the two convictions (described above) because one of the charges to which the applicant pled guilty is a Class C misdemeanor under Texas Penal Code Sec. 12.23, which carried a maximum punishment of \$500. Counsel, therefore, asserts that the conviction is not classifiable as a misdemeanor as the maximum punishment is five days or less. On appeal, counsel further states he will submit a brief and/or evidence within 30 days to establish the applicant's eligibility for TPS. However, the record does not reflect that counsel has submitted a brief or any additional evidence. Therefore, the record must be considered complete.

As discussed above, the applicant failed to respond to the director's request for evidence to submit final court dispositions for the two arrests. Also, counsel does not submit any evidence on appeal. There is no evidence of record to support the assertions of counsel that the applicant's pled guilty to a Class C misdemeanor under Texas Penal Code Sec. 12.23, is not classifiable as a misdemeanor. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.



An alien applying for temporary protected status has the burden of proving that he or 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.