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FILE:



Office: CALIFORNIA SERVICE CENTER

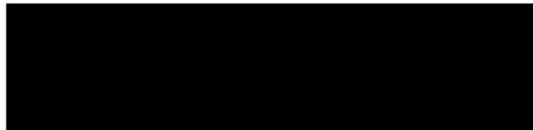
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**MAY 31 2007**

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IN RE:

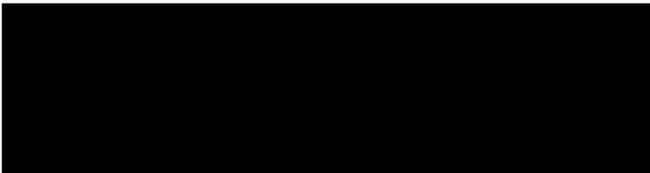
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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**DISCUSSION:** The application was denied and the TPS status of the applicant was withdrawn by the Director, California Service Center. The application is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a citizen and national 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 his initial TPS application on May 8, 2001. The director approved that application on March 2, 2004.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on March 4, 2005, and indicated that he was re-registering for TPS.

The director withdrew the applicant's TPS status on August 3, 2006, after determining that the applicant was ineligible for TPS, pursuant to section 244(c)(2)(B)(i) of the Act, based on his past criminal convictions.

Sec. 244.14 *Withdrawal of Temporary Protected Status.*

(a) Authority of director. The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time upon the occurrence of any of the following: (Amended 11/16/98; 63 FR 63593)

(1) The alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status;(emphasis added)

Further, 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).

The record of proceedings contains a Federal Bureau of Investigation report reflecting that the applicant was arrested on July 19, 2003, by the Huntington Park, California Police Department and charged with "Disrd Conduct, Drug W/Alc"and "Battery on Person."

On May 12, 2005, the director sent a notice of intent to withdraw the applicant's TPS status based on the applicant's past arrest.

The applicant responded to the notice and submitted the final court dispositions regarding his past arrests. Based on the record of proceedings, the director determined that the applicant had been convicted of two misdemeanor offenses; and therefore, withdrew the applicant's TPS status on August 3, 2006.

On appeal, counsel, on behalf of the applicant, requested an extension in order to obtain the necessary conviction records. Counsel did not submit any additional evidence on appeal.

The record of proceedings contains the court dispositions from the Superior Court of California of the County of Los Angeles, California which reveal that the applicant was convicted of two misdemeanor offenses: "Violence Used Against Former Spouse" and "Driving with Suspended License."

Therefore, the director's decision to withdraw the applicant's TPS status will be sustained, and the applicant remains ineligible for TPS.

It is noted that the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. 8 C.F.R. § 244.9, states that each application for TPS must be accompanied by evidence of the applicant's identity and nationality.

Sec. 244.9 Evidence.

(a) *Documentation.* Applicants shall submit all documentation as required in the instructions or requested by the Service. The Service may require proof of unsuccessful efforts to obtain documents claimed to be unavailable. If any required document is unavailable, an affidavit or other credible evidence may be submitted.

(1) *Evidence of identity and nationality.* Each application must be accompanied by evidence of the applicant's identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of: (Amended 11/16/98; 63 FR 63593)

(i) Passport;

(ii) Birth certificate accompanied by photo identification;  
and/or

(iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

The record of proceedings does not contain a evidence of the applicant's identity. Therefore, the application must also be denied for this reason.

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.