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**U.S. Citizenship
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FILE: [REDACTED]
[EAC 01 153 54034]

Office: VERMONT SERVICE CENTER

Date: NOV 06 2007

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 Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was initially approved. The approval was subsequently withdrawn by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal.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 her TPS application during the initial registration period. The Director, VSC, withdrew the approval of the TPS application on April 3, 2007, pursuant to 8 C.F.R. § 244.14(a)(3), because the applicant had failed to successfully re-register. However, the director should have withdrawn TPS pursuant to 8 C.F.R. § 244.14(a)(1) because the applicant, by failing to provide requested court records necessary for the adjudication of her application, had become ineligible for TPS.

On appeal, the applicant submits copies of a court disposition stemming from her arrest in March of 2005.

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.

The record reveals the following offenses:

1. The applicant was convicted on May 23, 2005, in Manassas, Virginia, of misdemeanor trespassing, a lesser included offense of felony credit card fraud. (Case number GC [REDACTED])

2. The applicant was arrested on September 3, 2005, in Manassas, Virginia for petit larceny. (Tracking number [REDACTED]) Despite the director's request, the actual court disposition has not been provided.

Pursuant to a letter dated October 27, 2006, the applicant was requested to submit the final court disposition for each of the charges detailed above. The applicant failed to respond to the director's request.

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of her application and denied the application on April 3, 2007.

On appeal, the applicant reasserts her claim of eligibility and requests reconsideration of her application.

The applicant has failed to provide any evidence revealing the final court disposition of her [arrest] detailed in number 2 above. The applicant is 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). Consequently, the director's decision to deny the application for this reason 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.