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U.S. Department of Homeland Security
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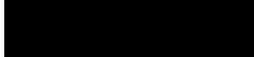
U.S. Citizenship
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: NOV 06 2007

[SRC 02 262 53957]
[WAC 05 224 72951]

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's TPS application was initially approved. The approval was subsequently withdrawn by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) on appeal.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 a TPS application during the initial registration period under CIS receipt number SRC 02 262 53957. The TPS application was approved on May 16, 2003. The applicant submitted a re-registration application on May 12, 2005. Based upon a review of a Federal Bureau of Investigation (FBI) report record, the Director, CSC, requested that the applicant submit a final court disposition stemming from his arrest on November 15, 1996, on a federal criminal charge of counterfeit money. The applicant responded to the director's request by submitting a final court disposition that indicated that he had been found guilty of counterfeit money under the United States District Court for the Southern District of Texas, on January 29, 1997. The Director, CSC, denied the re-registration application and withdrew the approval of the TPS application on September 13, 2006, because the applicant had been found guilty of counterfeit money, a felony.

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time if it is determined 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. 8 C.F.R. § 244.14(a)(1).

On appeal, the applicant requests that his TPS application be reconsidered for his family's sake, and asks for forgiveness for his criminal involvement in the past.

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.

Under section 101(a)(48) of the Act:

- (A) The term "conviction" means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where-
- (i) A judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and
 - (ii) The judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

The record reveals the following offenses:

- The applicant was arrested on November 15, 1996 in Houston, Texas, and charged with felony dealing in counterfeit obligations in violation of 18 U.S.C § 473. The applicant was convicted of the charge on January 29, 1997, and sentenced to 80 days, time served, and 3 years supervised probation.

The applicant is ineligible for TPS due to his record of a felony conviction as detailed above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to deny the re-registration application and withdraw the approval of 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.