



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: OCT 02 2007

[WAC 05 195 70148]
[LIN 02 239 50823]

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: Approval of the applicant's temporary protected status (TPS) was withdrawn, and the application for re-registration was denied, by the Director, California Service Center (CSC). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a native and citizen of El Salvador who is seeking TPS under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The CSC director determined that the applicant failed to submit all the requested evidence related to his arrests. The director, therefore, withdrew the applicant's TPS, and denied the applicant's application for re-registration on December 20, 2006.

On appeal, the applicant submits a statement and an additional document.

The director may withdraw the status of an alien granted TPS 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 October 5, 2006, the director notified the applicant of the intent to withdraw his TPS because the record reflected that he had been arrested on five separate occasions. He was granted 30 days to submit evidence to submit the final court dispositions for all his arrests. The applicant filed a response on November 3, 2006, and submitted the final court dispositions for three of the five arrests. The director determined the applicant had failed to submit all the evidence requested and withdrew the applicant's TPS. The applicant filed the current appeal from that denial decision on January 22, 2007.

On appeal, the applicant states that no record could be found of the two other arrests, and instead submits a computer print out from Colorado Bureau of Investigation that he obtained from the internet.

The record indicates that the applicant is ineligible for TPS because he has been convicted of two misdemeanors as follows:

1. On March 18, 2004, he pled guilty to Driving without A Driver's License, a misdemeanor, at the Adam's County Court in Colorado, Case number [REDACTED]
2. On January 10, 2005, he pled guilty to Driving without A Driver's License, a misdemeanor, at the Adam's County Court in Colorado, Case number [REDACTED]

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 applicant is ineligible for TPS due to his two misdemeanor convictions, 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 withdraw the applicant's TPS and deny the application for re-registration will be affirmed.

Finally, the record indicates that the applicant was arrested on two other subsequent occasions. On July 9, 2006, he was arrested by the Westminster Police Department for Receiving Stolen Property, and on July 20, 2006, he was arrested by the Thornton Police Department for Possession of Marijuana. In any future proceedings before Citizenship and Immigration Services (CIS), the applicant must submit the final court dispositions for these arrests and any additional charges against him.

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.