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U.S. Citizenship  
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FILE:



Office: VERMONT SERVICE CENTER

Date:

SEP 20 2007

[LIN 01 146 51344]

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**DISCUSSION:** Approval of the applicant's temporary protected status (TPS) was withdrawn by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal.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 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 VSC 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 26, 2006.

On appeal, the applicant submits a statement and additional documents.

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 August 7, 2006, the director notified the applicant of the intent to withdraw his TPS because the record reflected that he had been arrested on two separate occasions. He was granted 30 days to submit evidence to submit the final court dispositions for all his arrests. The applicant failed to submit a response; therefore, the director withdrew the applicant's TPS. The applicant filed the current appeal from that denial decision on January 26, 2007.

On appeal, the applicant states that he submitted a response to the notice. He also submits court dispositions.

A review of the record indicates that the applicant's response to the notice was received by VSC on August 17, 2006.

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

1. On October 24, 2002, he pled guilty to Driving While Intoxicated – Alcohol, a misdemeanor, at the Saline County Circuit Court in Missouri, Case number [REDACTED]
2. On December 2, 2003, he pled guilty to Driving While Intoxicated - BAC, a misdemeanor, at the Municipal Court in Marshall, Missouri, Case number [REDACTED]
3. On June 12, 2006, he pled guilty to Driving While Intoxicated, a felony, at the Saline County Circuit Court in Missouri, 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 one felony and 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.

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.