

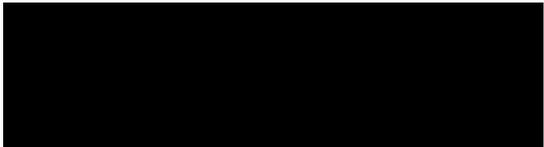
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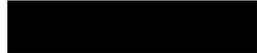
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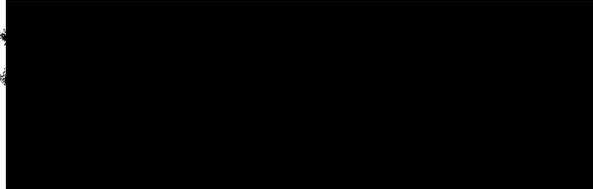
OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUN 29 2005

[WAC 01 225 55171]

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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a native and 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 director denied the application because the applicant had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant submits additional evidence. He asserts that he has not been able to obtain court dispositions because he has “not complete[d] everything yet,” and he requires more time to be able to process his case. He states that as soon as he gets the court documents, he will send them. To date, however, no additional statement or evidence has been provided.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

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.

An alien is inadmissible if he has been convicted of a crime involving moral turpitude (other than a purely political offense), or if he admits having committed such crime, or if he admits committing an act which constitutes the essential elements of such crime. Section 212(a)(2)(A)(i)(I) of the Act.

The Federal Bureau of Investigation fingerprint results report shows that on January 25, 1997, in Norwalk, California, the applicant (name used: [REDACTED]) was arrested for the felony offense of burglary.

In a notice of intent to deny dated February 28, 2004, the applicant was requested to submit: (1) evidence to show that he had continuously resided in the United States since February 13, 2001; (2) documents to show that he had been continuously physically present in the United States from March 9, 2001, to the date of filing his application; and (3) the final court disposition of any and all arrests. He was advised that the final disposition should be obtained for the court where the hearing took place, and that a report from the Police Department will not be sufficient. In response, the applicant furnished additional evidence in an attempt to establish residence and physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). He also submits a letter from the Superior Court of Los Angeles County, California, indicating that no record was found regarding [REDACTED].

The director determined that the applicant had failed to submit the final court disposition of all past and pending criminal cases and denied the application on May 6, 2004.

On appeal, the applicant submits a letter from the County of Los Angeles Sheriff's Department Headquarters indicating that a name search only inquiry was performed on [REDACTED] and that they "are unable to provide the complaint report file [REDACTED] due to additional information needed from another unit. When we received that information, [REDACTED] will be notified to pick up her request." While the applicant states that he requires more time to be able to process his case, to date, no additional statement or evidence has been provided.

The applicant has failed to provide any evidence revealing the final court disposition of his arrest, detailed above. The applicant is ineligible for temporary protected status because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Therefore, the director's decision to deny the application 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.