

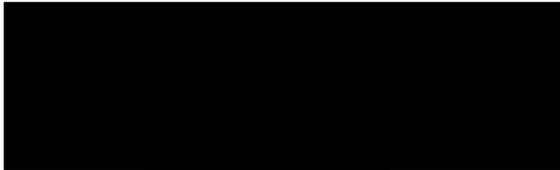
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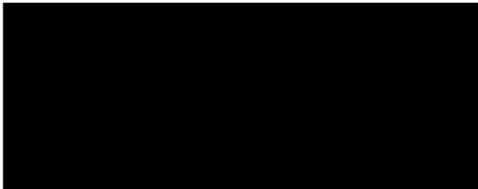
FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER
[WAC 05 223 79944]

Date:

IN RE: Applicant: [Redacted]

APPLICATION: Application for Temporary Protected Status under Section 244 of the
Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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: The application was denied 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 first Form I-821, Application for Temporary Protected Status, during the initial registration period on April 16, 2001, with the Nebraska Service Center (NSC) under receipt number LIN 01 167 50840. That application was denied on February 23, 2004, because the applicant had been convicted of a felony or two or more misdemeanors committed in the United States. After a review of the record, the Chief, AAO, concurs with the denial decision.

The applicant filed the current TPS application on May 11, 2005, and indicated that he was re-registering for TPS.

The CSC director denied the re-registration application on October 10, 2006, because the applicant failed to submit all the documentary evidence requested in a notice of intent to deny his application mailed to him on April 18, 2006.

On appeal, counsel argues that CSC director's decision is in error because all the requested court dispositions were submitted in response to the notice of intent to deny. She also resubmitted the court dispositions related to three of the applicant's arrests as follows:

- (1) On August 18, 2000, the applicant was arrested by the Aurora, Colorado Police Department. He pled guilty on August 21, 2000, to Battery, Assault and Injury to Property, and was sentenced to 30 days in jail.
- (2) On March 10, 2002, the applicant was arrested by the Aurora, Colorado Police Department for Driving Under the Influence of Liquor. He pled guilty on July 18, 2002, to a lesser charge of Driving While Ability Impaired, and was sentenced to 180 days in jail.
- (3) On July 13, 2002 the applicant was arrested by the Glenwood Springs, Colorado Police Department for DUI/Alcohol Related. He pled guilty on October 10, 2002, to Driving Under the Influence, and was sentenced to 30 days in jail.

The applicant however, failed to submit the final court disposition for the following arrest as requested in the notice:

- (4) On November 7, 2002, the applicant was arrested by the Arapahoe County Sheriff's Department for Driving Under the Influence of Liquor, a misdemeanor. The record indicates that he was found guilty at trial on November 7, 2002 and sentenced to 30 days in jail.

Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, the re-registration application must also be denied because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the application must also be denied for this reason.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

Furthermore, the applicant is ineligible for TPS due to his record of at least one felony or two or more misdemeanors committed in the United States, detailed above. 8 C.F.R. § 244.4(a). Consequently, the application must be denied for this additional reason.

In deportation proceedings on February 1, 1994, the applicant failed to appear at the scheduled hearing; therefore, the Immigration Judge ordered the applicant deported from the United States to El Salvador. A Warrant of Deportation, Form I-205, was issued on November 12, 1996. The record does not reflect that the applicant appeared for his enforced departure on December 12, 1996.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.