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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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[REDACTED]

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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: SEP 07 2010

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:

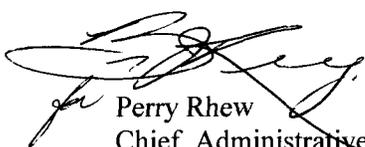
[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The re-registration application was denied by the Director, Vermont Service Center, 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 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 been convicted of three misdemeanors in the United States.

On appeal, the applicant apologizes for his previous wrongdoings and asserts that he has complied with all the courts' requirements. The applicant requests that his application be approved due to humanitarian reasons as he has to work to support his family.

An alien shall not be eligible for TPS 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).

"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. 8 C.F.R. § 244.1.

The record reflects the applicant's criminal history in the state of Texas as follows:

1. On March 7, 2002, the applicant was arrested by the Sheriff's Office in Houston Texas and subsequently charged with driving while intoxicated, a violation of Texas Penal Code section 49.04, a Class B misdemeanor. On April 21, 2003, the applicant pled guilty to the charge and was sentenced to serve 10 days in the Harris County Jail. Case no. [REDACTED]
2. On April 6, 2007, the applicant was arrested by the Tomball Police Department and charged with driving while intoxicated, a violation of Texas Penal Code section 49.04, failure to identify give false/fictitious information, a violation of Texas Penal Code section 38.02, and failure to stop and give information, a violation of Texas Penal Code section 550.022. On June 15, 2007, the applicant pled guilty to violating Texas Penal Code sections 39.04 and 550.022, both Class B misdemeanors. The applicant was sentenced to serve 20 days in the Harris County Jail for each violation. The remaining charge was dismissed. Case nos. [REDACTED]

On appeal, the applicant acknowledges his convictions and asserts that he has successfully completed all the court's requirements. However, neither the acknowledgement of past mistakes nor the applicant's satisfactory completion of all of his court obligations eliminates his convictions.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

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. Section 244(c)(3)(A) of the Act and 8 C.F.R. § 244.14(a)(1).

The record reflects that the applicant filed his initial TPS application ([REDACTED]) on September 9, 2002, and it was approved on July 25, 2003. On July 22, 2008, the director withdrew the applicant's TPS because the applicant had failed to submit requested final court dispositions relating to his criminal record.¹ On August 25, 2008, the applicant filed a motion to reopen, which was denied by the director on January 29, 2010. On December 5, 2008, the applicant filed another motion to reopen, which was denied by the director on October 2, 2009.

Because the applicant's TPS was withdrawn on July 22, 2008, and he did not overcome the basis for the withdrawal on motion, he was and is not eligible to re-register for TPS.

The record also reflects that the applicant had also filed a TPS application on May 17, 2002 ([REDACTED]), and was assigned alien registration number [REDACTED]. That application was approved on October 6, 2002. On July 22, 2008, the director withdrew the applicant's TPS because the applicant had failed to submit requested final court dispositions relating to his criminal record. No appeal was filed.

The applicant is ineligible for TPS due to his three misdemeanor convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The applicant's statements made on appeal have been considered. Nevertheless, there is no waiver available, even for humanitarian reasons, of the requirements stated above. Consequently, the director's decision to deny the re-registration application for this reason will be affirmed.

An alien applying for TPS 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.

¹ The applicant provided a letter from the Tomball Police Department, which only detailed his arrests.