



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: FEB 07 2013

Office: VERMONT SERVICE CENTER

FILE: [Redacted]

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank, you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The matter 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 was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

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).

The director withdrew TPS on June 28, 2012, because the applicant had been convicted of two or more misdemeanors, and is ineligible for TPS pursuant to section 244(c)(2)(B)(i) of the Act. The director noted that in response to a May 8, 2012 notice of intent to deny (NOID), the applicant provided final court dispositions for four arrests. The court dispositions confirm that the applicant had three misdemeanor convictions, and therefore, he could not overcome the reasons for the withdrawal of TPS stated in the NOID.

It is noted that counsel indicated on the Notice of Appeal or Motion, Form I-290B, filed on July 20, 2012, that a brief and/or additional evidence will be submitted within 30 days.¹ However, to date, the record does not reflect receipt of a brief or additional evidence.

On appeal, counsel does not dispute the director's determination that the applicant is ineligible for TPS. Counsel states that her office is currently in the process of filing for vacation of judgment for at least two of the applicant's convictions, and that evidence of the filings and the results will be submitted. As noted above, the record does not reflect receipt of any additional evidence.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as the applicant has failed to overcome the director's finding and has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the regulations mandate the summary dismissal of the appeal.

¹ Every appeal submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. 8 C.F.R. § 103.2(a)(1). The Form I-290B instructs the applicant to submit a brief and additional evidence to the AAO within 30 days of filing the appeal.

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As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The appeal is dismissed.