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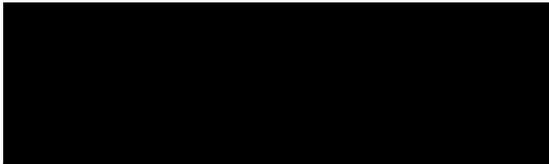
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

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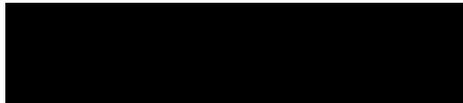
Office: CALIFORNIA SERVICE CENTER

Date: **AUG 29 2005**

[WAC 02 142 52226]

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, reopened, and denied again by the Director, California Service Center. The application 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 provided an insufficient response to his request for the final court dispositions of any and all arrests.

The director initially denied the application on September 17, 2002, after determining that the applicant had abandoned his application by failing to appear to be fingerprinted.

On July 17, 2003, the director reopened the case and issued a Notice of Intent to Deny and requested that the applicant submit evidence showing he had been physically present in the United States from March 9, 2001 until March 21, 2002. Subsequently, the director received the applicant's The Federal Bureau of Investigation (FBI) Identification record that revealed the following arrests:

1. Arrested on December 17, 2001 by South Gate Police Department and charged with one count of "DISRD CONDUCT, DRUG W/ALC."
2. Arrested on January 29, 2003 by the Los Angeles Police Department and charged with one count of "CHARGE-243 A PC-BATTERY ON PERSON."

On February 27, 2004, the director issued another Notice of Intent to Deny requiring the applicant to submit an abstract of judgment, judgment and complaint or the actual certified copy of the final court disposition for each of his arrests. On March 10, 2004, the applicant responded by submitting a letter dated March 8, 2004 from a Senior Hearing Officer from the Office of the City Attorney of the City of Los Angeles in reference to Case [REDACTED]. The senior hearing officer states that on February 28, 2003, a hearing was held in the Office of the City attorney regarding allegations that the applicant had committed a violation of Penal Code Section 242. The senior hearing officer further states that the matter was resolved at the hearing and that no criminal complaint was filed against him.

On March 22, 2004, the director issued his decision finding the applicant had provided an insufficient response to his request for the final court dispositions of any and all arrests.

On appeal, the applicant resubmits the March 8, 2004 letter from the senior hearing officer along with a letter dated March 29, 2004 from the Commanding Officer of the Records and Identification Division of the Los Angeles Police Department (LAPD) advising the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), that the applicant had requested a copy of his LAPD arrest report(s) and that they would be provided directly to CIS.

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.

In this case, the applicant has failed to provide any evidence revealing the final court dispositions of his December 17, 2001 arrest by the South Gate Police Department and his January 29, 2003 arrest by the Los Angeles Police Department 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.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. The applicant has provided a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore, the application is denied for this additional reason.

On October 8, 1998, the Director of the Arlington Asylum Office referred the applicant's request for asylum in the United States to an immigration judge because he had failed to appear for his scheduled asylum interview, or failed to provide a competent interpreter, and did not show good cause. On December 16, 1998, the applicant was ordered removed from the United States by an Immigration Judge in Baltimore, Maryland after he failed to appear for his hearing. A Warrant of Removal/Deportation dated January 4, 1999 was issued for his arrest by the Assistant District Director for Detention and Deportation of District Director of the Baltimore, Maryland office of CIS.

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.