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



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

**PUBLIC COPY**

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[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: FEB 08 2005  
[WAC 01 203 50752]

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:

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 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 determined that the applicant had failed to submit the requested certified final court disposition of his arrest. The director, therefore, denied the application.

On appeal, counsel submits a statement and additional evidence.

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

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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.

Pursuant to section 244(c)(2)(B)(i) of the Act and the related regulations in 8 C.F.R. § 244.4(a), an alien shall not be eligible for temporary protected status if the Attorney General, now, the Secretary of the Department of Homeland Security (the Secretary), finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States.

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 felony or misdemeanor.

The Federal Bureau of Investigation (FBI) fingerprint results report, contained in the record of proceeding, shows that the applicant was arrested on January 12, 2000, in San Francisco, California, for prostitution. Therefore, the applicant was requested on December 2, 2003, to submit a certified final court disposition of any and all arrests in the United States. He was advised that the final disposition should be obtained from the court where the hearing took place, not from the police station. Because the applicant, in response, failed to submit the final court disposition of his arrest, the director denied the application.

On appeal, counsel asserts that the applicant speaks and reads very little English, and he did not understand that he needed to provide a certified court disposition of his 1999 arrest. Counsel states that the applicant's arrest was dismissed. He submits a certified copy of the San Francisco Police Department Criminal History Record indicating that the applicant's arrest on December 7, 1999, (Court No. [REDACTED] for disorderly conduct/prostitution, 647(B) PC, a misdemeanor, was dismissed on February 10, 2000, for lack of evidence. He also submits a certified copy of the Minute Order of the Superior Court of California, County of San Francisco, Action No. [REDACTED] indicating that the charge against the applicant, under Court No. [REDACTED] Charge: (B)PC/M" was dismissed for lack of evidence on February 10, 2000.

The applicant, however, failed to submit the requested final court disposition of all his arrests, including his arrest on January 12, 2000, for prostitution. The record contains no evidence suggesting this arrest is related to the arrest of December 7, 1999, furnished by counsel on appeal.

The applicant is, therefore, ineligible for TPS based on his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Accordingly, the director's decision to deny the TPS application will be affirmed.



The burden of proof is upon the applicant to establish 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. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.