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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: MAR 17 2005

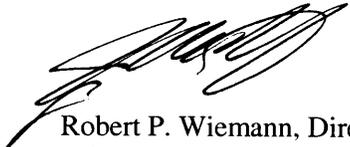
IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT: 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 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 denied the application because he found that the applicant had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant submits additional evidence. The applicant appears to be represented; however, the record does not contain a Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

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.

An alien is inadmissible if he has been convicted of, or admits having committed, or admits committing acts which constitute the essential elements of a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 USC 802). Section 212(a)(2)(A)(i)(II) of the Act.

Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more is inadmissible. Section 212(a)(2)(B) of the Act.

An alien is inadmissible if a consular officer or immigration officer knows or has reason to believe he is or has been an illicit trafficker in any such controlled substance. Section 212(a)(2)(C) of the Act.

The record reveals the following offenses:

- (1) The National Crime Information Center (NCIC) printout report, contained in the record, shows that the applicant was arrested on June 29, 1980, in Los Angeles, California, for assault with intent to murder, 217 PC.
- (2) The NCIC report shows that the applicant was arrested on March 27, 1981, in Los Angeles, California, for assault with a deadly weapon, 245(a) PC.

- (3) The NCIC report shows that the applicant was arrested on April 28, 1981, in Los Angeles, California, for taking a vehicle without the owner's consent/vehicle theft, [REDACTED]
- (4) The NCIC report shows that the applicant was arrested on May 4, 1981, in Los Angeles, California, for attempted robbery, 211 PC.
- (5) The Federal Bureau of Investigation (FBI) fingerprint results report shows that the applicant was arrested on October 8, 1981, in Los Angeles, California, for assault with a deadly weapon, 245(a) PC.
- (6) The NCIC report shows that the applicant was arrested on May 20, 1982, in Los Angeles, California, for assault with a deadly weapon, 245(a) PC.
- (7) The FBI report shows that the applicant was arrested on March 27, 1984, in Reno, Nevada, for possession of a controlled substance-marijuana.
- (8) The NCIC report shows that the applicant was arrested on March 25, 1985, for force/assault with a deadly weapon not firearm: great bodily injury likely, 245(a)(1) PC. The report shows that the applicant was subsequently convicted of this offense.
- (9) The FBI report shows that the applicant was arrested on September 3, 1992, in Los Angeles, California, for driving under the influence of alcohol/drugs causing bodily injury. The report shows that the applicant was subsequently convicted of (1) hit and run causing death or injury, and (2) felony drunk driving.
- (10) The FBI report shows that the applicant was arrested on November 12, 1995, in San Bernardino, California, for [REDACTED]
- (11) NCIC report shows that the applicant was arrested on September 6, 1992, in Los Angeles, California, for "11360(a) H&S-give/etc marij over 1 oz/28.5 grm."
- (12) The FBI report shows that the applicant was arrested on December 19, 1997, in San Bernardino, California, for driving under the influence with prior specific convictions.
- (13) The FBI report shows that the applicant was arrested on February 21, 2001, in San Jose, California, for driving under the influence; giving false identification to peace officer; driving when privilege suspended/revoked "BE;" driving when privilege suspended/revoked "DU;" and driving when privilege suspended/revoked "F/OT." The report shows that the applicant was subsequently convicted of (1) false identification to peace officer, (2) driving with suspended license, etc. DUI refused test, and (3) driving with suspended license, etc. DUI specific violation.
- (14) The FBI report shows that the applicant was arrested on April 3, 2001, in San Bernardino, California, for driving under the influence of alcohol/drug resulting in bodily injury.

Based on a notice of intent to deny dated July 31, 2003, the applicant was requested to submit: (1) evidence to show that he had continuously resided in the United States since February 13, 2001; (2) documents to show that he had been physically present in the United States from March 9, 2001, to the date of filing his application; and (3) police clearances from every city where he had lived since arriving in the United States; in addition, to provide certified final court dispositions of any arrests in the United States. In response, the

applicant furnished additional evidence in an effort to establish physical presence and continuous physical presence in the United States. However, he failed to submit the final court dispositions of his arrests.

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and denied the application on December 16, 2003.

On appeal, the applicant submits one document: The Minute Order of the Superior Court of California, County of San Bernardino, San Bernardino District, regarding the applicant's probation review hearing held on August 1, 2002, under Case No. [REDACTED] for the felony offense of 23152(a) VC, driving under the influence.

The applicant has failed to provide any evidence revealing the final court dispositions of his arrests detailed in Nos. 1 to 14 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). Consequently, the director's decision to deny the application for this reason will be affirmed.

The FBI report further reveals the following removal proceedings issued against the applicant:

- (1) Issued in Los Angeles California, on May 5, 1981, and that the applicant voluntarily departed from the United States (File Number [REDACTED])
- (2) Issued in El Centro, California, on July 23, 1983, and that the applicant voluntarily departed from the United States (File Number [REDACTED])
- (3) Issued in Reno, Nevada, on April 13, 1984 (File Number [REDACTED])
- (4) The record of proceeding shows that a warrant of deportation was issued on April 27, 1984, at Florence, Arizona, and that the applicant was subsequently removed from the United States (from Los Angeles, California) on May 1, 1984 (File Number [REDACTED])
- (5) Issued in El Paso, Texas, on November 10, 1985 (file number not shown).
- (6) Issued in Los Angeles, California on April 9, 1999 (File Number [REDACTED]) The record shows that the applicant was subsequently removed from the United States on May 13, 1999.
- (7) Issued in Brownsville, Texas, on August 29, 1999 (File Number [REDACTED])

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.