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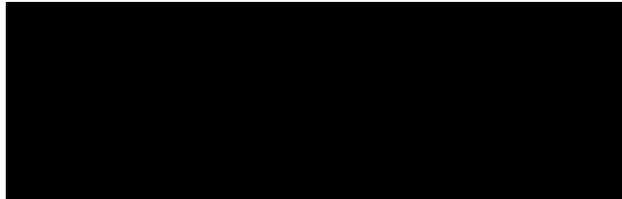
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FILE: [REDACTED]
[WAC 02 044 53049]

Office: CALIFORNIA SERVICE CENTER

Date: **NOV 03 2005**

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 by the Director, California Service Center. The application 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 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 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 Attorney General finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. Section 244(c)(2)(B)(i) of the Act.

"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. 8 C.F.R. § 244.1.

"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.

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.

The most commonly accepted definition of a crime involving moral turpitude is an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man. *Jordan v. De George*, 341 U.S. 223, reh'g denied, 341 U.S. 956 (1951).

The Federal Bureau of Investigation (FBI) fingerprint report contained in the record of proceeding reveals the following offenses:

1. On February 5, 2000, the applicant was arrested in Los Angeles, California, and charged with one count of "GRAND THEFT, GUN/ANIML/ETC."
2. On June 3, 2000, the applicant was arrested in Los Angeles, California, under the name [REDACTED] and charged with one count of driving under the influence of alcohol.
3. On July 21, 2000, the applicant was arrested in Los Angeles, California, under the name [REDACTED] and charged with one count of driving under the influence of alcohol.

Pursuant to a letter dated August 23, 2004, the applicant was requested to submit the final court disposition for the charges detailed above. In response, the applicant provided a document from the Superior Court of California, County of Los Angeles, indicating that no criminal record was found for [REDACTED].

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of his application and denied the application on October 4, 2004.

On appeal, the applicant states that he did submit the requested document, but no criminal record was found because "I have not been convicted of either a felony or two misdemeanors."

However, the applicant's criminal record was discovered through an FBI fingerprint search. FBI records are regulated by law and furnished for official use only. It is the position of CIS that an FBI fingerprint search provides a more thorough account of an applicant's criminal background than local record searches conducted by name only. The letter from the Los Angeles Superior Court is not sufficient to establish that the applicant has not been convicted. The name the court searched for differs from the names under which the applicant was arrested. Furthermore, there is no evidence in the file to suggest that this court would have had jurisdiction over the applicant's three arrests.

The applicant has failed to provide any evidence revealing the final court disposition of his arrests 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). Consequently, the director's decision to deny the application on this basis will be affirmed.

It is noted that, although the applicant has not provided the final court disposition of the offense detailed in No. 1 above, he may be inadmissible to the United States under section 212(1)(2)(A)(i)(1) of the Act as an alien who has been convicted of a crime involving moral turpitude.

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.