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

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[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: DEC 28 2007
[WAC 05 198 76474]
[WAC 01 173 58419]

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.

John H. Vaughan
for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The re-registration application was denied and the applicant's previously granted TPS was withdrawn by the Director, California Service Center (CSC). The case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a citizen and national 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 record reveals that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on April 9, 2001. The CSC Director approved that application on February 6, 2004.

The applicant filed the current Form I-821 on April 16, 2005, and indicated that he was re-registering for TPS.

The director withdrew the applicant's TPS and denied the re-registration application on August 3, 2006, after determining that the applicant failed to provide the final court dispositions with regard to his past arrests.

Sec. 244.14 Withdrawal of Temporary Protected Status.

(a) Authority of director. The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time upon the occurrence of any of the following:

(1) The alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status.

Further, 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).

The record of proceedings contains a Federal Bureau of Investigation (FBI) report on the applicant listing the following offenses:

- (1) On June 26, 2003, the applicant was arrested and charged with "001 Count of Firearm at School."
- (2) On November 9, 2004, the applicant was arrested and charged with "001 Counts of Battery on Person," and "001 Counts of Vandalism, Damage Property."
- (3) On December 2, 2004, the applicant was arrested and charged with "001 Counts of Bat Against Peace Officer."

On March 20, 2006, the director sent a notice of intent to withdraw (NOIW) the applicant's TPS based on the applicant's past arrests as detailed above, and requested the applicant to provide the final court dispositions

for these arrests. In response, the applicant submitted a printout from the archives of the county record which does not explain the dispositions of his arrests in court. The director therefore withdrew the applicant's TPS and denied the re-registration application on August 3, 2006.

On appeal, counsel submits the same printout from the archives of the county records that was submitted in response to the NOIW, and a certification from the applicant that he has not been convicted of a felony or two or more misdemeanors committed in the United States.

The record still contains no final court dispositions with respect to the applicant's arrests. Thus, the applicant has not provided sufficient evidence to establish his eligibility for TPS. 8 C.F.R. § 244.9(b).

Therefore, the director's decision to withdraw the applicant's TPS will be affirmed. The applicant remains ineligible for TPS.

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.