



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



PUBLIC COPY

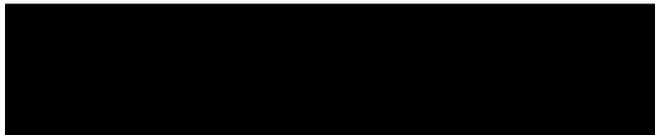
M

JUL 23 2007
DATE:

FILE: [REDACTED]
[WAC 06 117 70047]

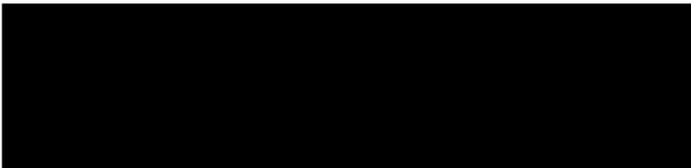
OFFICE: California Service Center

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:



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, Chief
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 the applicant had failed to provide the final court dispositions of charges relating to his criminal record.

On appeal, the applicant states that he has not been able to obtain the final court dispositions regarding his arrests in California and that he will need to travel there to obtain them.

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.
8 C.F.R. § 244.1.

A Federal Bureau of Investigation fingerprint results report reveals that the applicant was arrested for the following offenses:

- (1) On March 18, 1992, the applicant was arrested by the Sheriff's Office of San Bernardino, California, and charged with “Poss Narc/Sale,” “Trans/Sell Sub,” and “N/Sub/Infl Sub;”
- (2) On July 2, 1995, the applicant was arrested by the Sheriff's Office of San Bernardino, California, and charged with “Inf./Watercraft:’ and,
- (3) On January 26, 2002, the applicant was arrested by the Sheriff's Office of Goshen, Indiana, and charged with “Operating Vehicle While Intoxicated.”

Pursuant to the director's Notice of Intent to Deny dated September 12, 2006, the applicant was requested to submit the final court dispositions for the charges as detailed above. On October 11, 2006, counsel requested additional time in order to obtain the necessary court dispositions. The director granted additional time; however, counsel failed to provide the requested final court dispositions. The director, therefore, denied the

application on December 12, 2006, because the applicant did not submit the requested evidence regarding his past arrests in order to establish his eligibility for TPS.

On appeal, the applicant requested additional time in order to obtain the final court dispositions regarding his past arrests in California. However, as of the date of this notice, the applicant has not provided any additional documentation; therefore, the record will be considered complete.

A review of the record reflects that applicant has failed to provide evidence revealing the final court dispositions of his past arrests as detailed above. The applicant is ineligible for TPS 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 for TPS will be affirmed.

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.