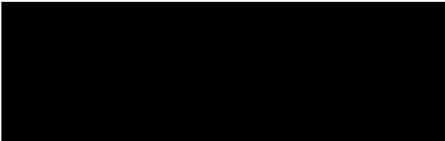




U.S. Citizenship
and Immigration
Services

PUBLIC COPY

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



M1

FILE: [REDACTED]
[SRC 02 036 56734]

OFFICE: TEXAS SERVICE CENTER

DATE: MAR 06 2007

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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 submit requested court documents relating to his criminal record.

On appeal, the applicant asserts his claim of eligibility for TPS.

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.

The record reveals that the applicant has been arrested and charged with multiple felony, misdemeanor, and traffic offenses in the state of Florida from 1998 to 2004. The director requested that the applicant submit final court dispositions and listed the arresting charges as follows:

- On June 29, 2002, the applicant was arrested and charged with Entry in U.S. Without Admission or Parole;
- On September 29, 1998, the applicant was arrested and charged with Trespassing;
- On June 28, 2002, the applicant was arrested and charged with Federal Charge #2002326554;
- On July 19, 2003, the applicant was arrested and charged with Driving While License Suspended;
- On July 19, 2003, the applicant was arrested and charged with Fraud—Impersonation/Unlawful Use of False Identity/Name;
- On September 11, 2003, the applicant was arrested and charged with Driving While License Suspended;
- On September 11, 2003, the applicant was arrested and charged with Fraud—Impersonation/False I.D. Given to Law Enforcement Officer;
- On September 11, 2003, the applicant was arrested and charged with Attached Registration License Plate Not Assigned;
- On September 11, 2003, the applicant was arrested and charged with Failure to Register Vehicle; and,
- On October 3, 2003, the applicant was arrested and charged with Failure to Appear.

The applicant failed to respond to the director's request for evidence. The director denied the TPS application on February 23, 2004, because the applicant failed to comply with the request for evidence.

On appeal, the applicant re-asserts his claim of eligibility for TPS, and submitted copies of open criminal case files, arrest reports, arrest records, booking reports, and driver's license transcripts. However, he has failed to submit copies of final court dispositions stemming from his numerous criminal arrests.

Without documentation attesting to the final court dispositions, the AAO is unable to determine the applicant's eligibility for TPS. Therefore, the director's decision to deny the application 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.