

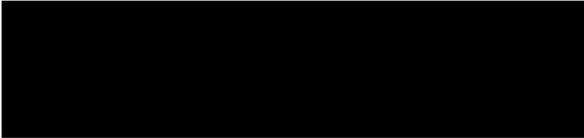


U.S. Citizenship  
and Immigration  
Services

PUBLIC COpy

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

M1



FILE: [REDACTED] OFFICE: Vermont Service Center DATE: APR 01 2008  
[EAC 07 131 70293]

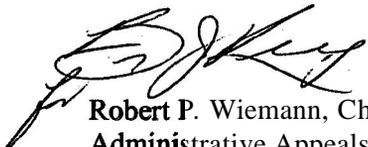
INRE: Applicant: [REDACTED]

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

u

**DISCUSSION:** The application was denied by the Director, Vermont 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 the applicant failed to establish he was eligible for late registration. The director also found that the applicant had failed to submit the final court documentation for criminal offenses committed in the United States.

On appeal, the applicant asks CIS to reconsider his TPS case and afford him the opportunity to stay and work legally in the United States so that he could help maintain his family.

Section 244(c) of the Act, and the related regulations, in 8 C.F.R. § 244.2; provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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.

Pursuant to section 244(c)(2)(B)(i) of the Act and the related regulations in 8 C.F.R. § 244.4(a), an alien shall not be eligible for temporary protected status if the Attorney General, **now**, the Secretary of the Department of Homeland Security (the Secretary), finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States.

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 felony or misdemeanor.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, **and continuous** physical presence in the United States since March 9, 2001. The designation of TPS for El Salvadorans has been extended several times, with the latest extension **valid** until March 9, 2009, upon the applicant's re-registration during the requisite time **period**.

To qualify for late **registration**, the applicant **must** provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. The record reveals that the applicant filed his TPS application on February 7, 2007.

The burden of **proof** is upon the applicant to establish that he or she **meets** the **above** requirements. Applicants shall submit all documentation as required in the instructions or **requested by** CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. **To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements.** 8 C.F.R. § **244.9(b)**.

The applicant was requested to submit evidence establishing his eligibility for **late registration** as set forth in 8 C.F.R. § 244.2(t)(2), his continuous residence and his continuous physical presence in the United States during the requisite periods. The applicant was also requested to submit judgment and conviction documents for his **arrests**.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on October 3, 2007.

On appeal, the applicant submits evidence relating to his continuous residence, and his continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Form 1-821, Application for Temporary Protected Status, within the initial registration period. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS will be affirmed.

Furthermore, the record shows that on January 14, 2004, the applicant was arrested by the Fairfax County Police Department, Agency **C a s e \_ \_** and charged with:

- 1) CHARGE 1 - FAIL TO APPEAR ON MISDEMEANOR CHARGE
- 2) CHARGE 1 - PROSTITUTION OR SOLICITATION OF PROSTITUTE

The final disposition of this charge, however, is not contained in the record of proceeding, although the applicant was requested on April 10, 2007, to submit the final court dispositions of all arrests. The applicant submitted a letter from the public defender addressed to him regarding the charges, copies of property records from the Fairfax County Adult Detention Center and copies of a Virginia Uniform Summon. However, these documents do not show the final disposition of his arrests.

The applicant had failed to provide any evidence revealing the final court disposition of his arrest 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 for this reason will also be affirmed.

The burden of proof is upon the applicant to establish that he 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. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.