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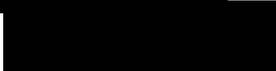


U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: APR 02 2008

[EAC 01 198 51447]

INRE:

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 Director, Vermont Service Center (VSC), approved the initial application. The director subsequently withdrew the approval of the application and denied the case, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1254.

The director found that the applicant did not comply with re-registration requirements because he failed to provide requested court dispositions for arrests on March 31, 2005, for DUI, and on June 21, 2005, for driving with a suspended license. The director withdrew the approval of the initial application and deemed the re-registration application abandoned for failure to provide the requested dispositions.

On appeal, counsel for the applicant asserts that there are two types of driving with a suspended license in Florida and notes that the director did not specify if the applicant was convicted of an infraction or a crime. Counsel does not submit the final court disposition for the driving with a suspended license arrest.

The director may withdraw the status of an alien granted TPS under section 244 of the Act, at any time, if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1). The director may also withdraw the status of an alien granted TPS under section 244 of the Act, at any time, if it is determined that the alien failed, without good cause, to successfully re-register for TPS. 8 C.F.R. § 244.14(a)(3). The director determined that the applicant abandoned his re-registration application by failing to submit the requested court records pertaining to his criminal history and withdrew the applicant's TPS pursuant to 8 C.F.R. § 244.14(a)(3), finding that the applicant had failed to successfully re-register. However, the director should have withdrawn TPS pursuant to 8 C.F.R. § 244.14(a)(1) because the applicant, by failing to provide requested court records necessary for the adjudication of his application, had become ineligible 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.

The record reflects that the director approved the applicant's initial TPS application on October 16, 2002.

On July 10, 2006, and January 18, 2007, the director sent the applicant a Notices of Intent to Withdraw TPS.

The record reflects the following in Florida:

1. The applicant was arrested on March 31, 2005, by the Broward County Police Department and charged with traffic offense- DUI alcohol/drugs. The applicant was convicted of this misdemeanor on September 16, 2005 (case # \_\_\_\_\_); and,
2. The applicant was arrested on June 21, 2005, by the Fort Lauderdale Police Department, and charged with a traffic violation - driving with a suspended license. The applicant pleaded guilty to this misdemeanor on October 6, 2005, and was sentenced to 10 days in jail (case # \_\_\_\_\_).

The applicant is ineligible for TPS due to his record of at least two misdemeanor convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to withdraw TPS will be affirmed.

An alien applying for TPS 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. Here, the applicant has not met this burden.

**ORDER:** The appeal is dismissed.