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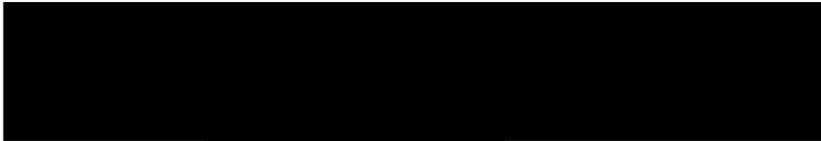
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

Office: VERMONT SERVICE CENTER

Date:

FEB 20 2008

[EAC 07 215 52865, appeal]

[EAC 01 258 51644]

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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status (TPS) was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal.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 was granted TPS on November 19, 2002. The director subsequently withdrew the applicant's TPS on June 26, 2007, when it was determined that he had failed to provide court dispositions for his arrests on June 21, 2005 and November 4, 2005.

On appeal, the applicant states:

I am requesting respectfully to review my appeal for your decision against my temporary protect if status protection for Salvadoran people.

I understand I made a mistake, but I did not want to make a malicious destruction of property. I was arrested two times for the same mistake, but my error was not showed up before court Judge disobeying a court order, and the explanation is that I was afraid and I do not think about the consequence of my mistake. Also I was mental and physical out of control, because I was drunk.

I will be grateful to receive the opportunity to state legally in this precious country, and actually I am retired of the alcohol and attending a church that is helping me to be a better person.

The VSC Director withdrew the applicant's TPS following 8 C.F.R. § 244.14(a)(3) which provides for withdrawal of status if the alien fails without good cause to register with Citizenship and Immigration Services within thirty days before the end of each twelve-month period after the benefit is initially granted. The VSC Director should have followed the regulations at 8 C.F.R § 244.14(a)(1) which provide for the withdrawal of TPS if the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible.

Section 244(c) of the Act, and the related regulations at 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General 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.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

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. Section 244(c)(2)(B)(i) of the Act and the regulations at 8 C.F.R. § 244.4(a).

The regulations at 8 C.F.R. § 244.1 define “felony” and “misdemeanor” as:

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 applicant's Federal Bureau of Investigation (FBI) fingerprint results report shows the following:

On June 21, 2005, the applicant was arrested by the Police Department in Landover, Maryland, and charged with "THEFT;LESS \$500 VALUE" and "MAL DEST PROP/VALU." He was then released and failed to appear in court as required. He was rearrested on November 4, 2005 by the Capital Park Police in Riverdale, Maryland, for failing to appear to face the above charges. He had a bail/bond hearing on November 7, 2005. On January 12, 2006, he pled guilty, and his two charges appear to have been merged. On April 6, 2006, he was sentenced to serve one day in jail.

In a Notice of Intent to Withdraw dated August 3, 2006, the applicant was requested to submit final court dispositions for the arrests outlined above. On appeal, the applicant states that he did not intend to maliciously destroy property, explains that he was arrested two times "for the same mistake," acknowledges that he did not appeal before a Judge when required and gives several reasons to justify his behavior. However, to date, he has not submitted court dispositions for his arrest(s) listed above. Accordingly, he 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 withdraw TPS is affirmed.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document to establish his nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1). Therefore, his TPS shall be withdrawn for this additional reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.