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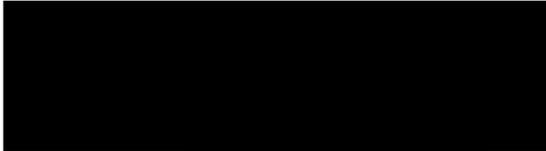
U.S. Department of Homeland Security
20 Mass. Avenue, N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

Office: VERMONT SERVICE CENTER

Date: JAN 30 2008

[WAC 05 105 70434]

[SRC 99 181 50656]

IN RE:

Applicant:



APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act (the 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 Director, Vermont Service Center (VSC), approved the initial application then subsequently withdrew the approval of the application. The matter 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 denied the re-registration application because the applicant failed to provide the final court dispositions for all criminal arrests and convictions. The director also withdrew the approval of the applicant's initial TPS application because the applicant failed to comply with re-registration requirements.

On appeal, the applicant states that he wants an opportunity to work legally in the United States and submits additional documents.

Citizenship and Immigration Services (CIS) may withdraw TPS if the alien was not eligible at the time the status was granted, or if he or she becomes ineligible for TPS. 8 C.F.R. § 244.14(a)(1).

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 TPS 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.

The burden of proof is on 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 Citizenship and Immigration Services (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 record is incomplete as to all of the applicant’s criminal convictions. The record, however, does contain final court dispositions that show that the applicant was convicted of:

1. One count of Driving While License Suspended, under Florida Statute (FS) § 322,34, on March 29, 1996, in County Court, Dade County, Florida;
2. One count of Leaving the Scene of an Accident Involving Property Damage, under FS § 316.061(1), February 1, 1997, in County Court, Dade County, Florida;
3. One count of Driving Under the Influence, under FS § 316.193, County Court, on February 1, 1997, in County Court, Dade County, Florida; and,
4. One count of violation of the Miami Municipal Liquor Ordinance, on March 13, 2004, in County Court, Dade County, Florida.

The applicant has submitted police reports, but no final court dispositions, for the following charges against him:

5. One count of Battery, on June 15, 2003, in Miami, Florida; and,
6. 12 counts of Violation of the Miami Municipal Liquor Ordinance May 23, 2004, in Miami, Florida.

On April 28, 2006, the director requested that the applicant submit the final court disposition for each of the charges detailed above. In response, the applicant submitted certificates from Driver Improvement School, dated December 22, 2005; the jail booking record for the obstructing a police officer arrest; police reports relating to the municipal liquor violations; the jail booking record for the a March 26, 1996, driving while license suspended charge; and signed an attestation that he had not been convicted of a felony or two misdemeanors.

On November 14, 2006, the director denied the applicant's re-registration application because the applicant failed to provide the final court dispositions for any and all criminal arrests and convictions. The director also withdrew the approval of the applicant's initial TPS application because the applicant failed to comply with re-registration requirements.

On appeal, the applicant asks for the opportunity to be legal and resubmits previously submitted police reports.

The applicant has failed to provide the final court dispositions for arrests that occurred on June 15, 2003, and May 23, 2004. A police report is not a suitable substitute for a final court disposition. The record reflects that the applicant may have pled guilty to one count of Battery on June 15, 2003, however, a complete court disposition was not submitted or is not on file. The record also does not contain the disposition for an arrest on May 23, 2004, for the Miami Municipal Liquor Violations mentioned above. The AAO notes that the applicant has been arrested at least three times for municipal liquor violations. The record contains final court dispositions for arrests on March 13, 2004, and April 2, 2004. The applicant has not submitted the disposition for his arrest on May 23, 2004. At this time, the AAO cannot determine whether the applicant was convicted of these charges and whether or not these would affect his TPS eligibility. Accordingly, the director's decision to deny the applications on this ground is affirmed.

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). Accordingly, the director's decision to deny the application for failure to provide information necessary for the adjudication of the application is affirmed.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited 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.