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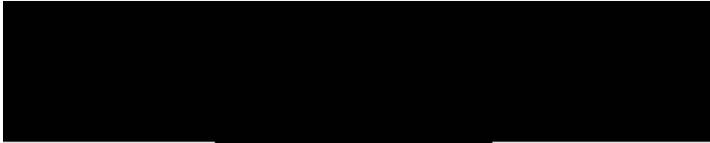
U.S. Department of Homeland Security
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Washington, DC 20529



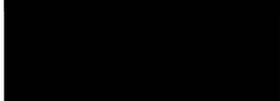
U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: OCT 30 2008

[SRC 01 233 68929 - initial]
[EAC 08 147 54924 - Form I-290B]

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:



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DISCUSSION: Approval of the applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center (VSC), and the case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a citizen and national 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 record reveals that the applicant filed his initial TPS application [SRC 01 233 68929] on June 8, 2001. The director approved that application on June 6, 2003.

The director withdrew the applicant's TPS status on April 8, 2008, after determining that the applicant failed to respond to a request for evidence regarding his past arrests.

Sec. 244.14 Withdrawal of Temporary Protected Status.

(a) Authority of director. The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time upon the occurrence of any of the following: (Amended 11/16/98; 63 FR 63593)

(1) The alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status; (emphasis added)

Further, 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).

The record of proceedings reflects the following regarding the applicant's past arrests:

- 1) On April 13, 2002, the applicant was arrested by the Houston Police Department and charged with "Driving While Intoxicated." The applicant pled guilty and was convicted on April 15, 2002, for "Driving While Intoxicated," a misdemeanor (Cause Number: [REDACTED]); and,
- 2) On April 26, 2006, the applicant was arrested again by the Houston Police Department and charged with "Driving While Intoxicated 2nd." It appears that the applicant pled guilty and was convicted on May 3, 2006, for "Driving While Intoxicated 2nd," a misdemeanor (Cause Number: [REDACTED]); however, the actual court disposition for this offense was not provided.

On June 27, 2007, the director sent a notice of intent to withdraw the applicant's TPS status based on the applicant's past arrests as detailed above, and requested the applicant to provide the final court dispositions for these arrests. The director determined that the record did not contain a response from the applicant, and therefore, withdrew the applicant's TPS status on April 8, 2008.

On appeal, counsel states that the applicant did not receive the director's notice of intent to withdraw the applicant's TPS, and that the Service erred by not providing the applicant with proper notice.

A review of the record reflects that the director's notice dated June 27, 2007, was sent to the applicant's last known address at [REDACTED] Houston, Texas. It is noted that the applicant indicated this same address on his applications for employment authorization filed on November 9, 2006, and on October 19, 2007. It also noted that the applicant did receive the director's notice to withdraw his TPS which was also sent to [REDACTED] Houston, Texas.

The applicant remains 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).

Therefore, the director's decision to withdraw the applicant's TPS status will be sustained, and the applicant remains ineligible for TPS.

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.