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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

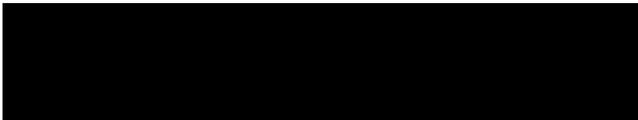


U.S. Citizenship
and Immigration
Services

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FILE:  OFFICE: VERMONT SERVICE CENTER DATE: JUN 02 2010

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal.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 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 a TPS application during the initial registration period on March 16, 2001. The Director, California Service Center, approved that application on October 5, 2003.

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 withdrew approval of the application because he found that the applicant had failed to submit requested court documentation relating to her record.

On appeal, the applicant states that she provided what was given to her by the court.

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.

An alien is inadmissible if he has been convicted of a crime involving moral turpitude (other than a purely political offense), or if he admits having committed such crime, or if he admits committing an act which constitutes the essential elements of such crime. Section 212(a)(2)(A)(i)(I) of the Act.

The record reveals the following offenses:

- (1) On October 19, 1994, the applicant was arrested by the Sheriff's Office in Norwalk, California for two counts of "Driving W/O Owner's Consent," and two counts of "Receiving/Conceal Stolen Property." (Docket # [REDACTED])
- (2) On August 6, 2003, the applicant was arrested by the Sheriff's Office in Norwalk, California for "Vehicle Theft."

Pursuant to a Notice of Intent to Withdraw TPS dated May 12, 2008, the applicant was requested to submit the final court disposition for each of the charges detailed above. In response, the applicant provided a documentation from the Los Angeles County Superior Court regarding the October 19, 1994, arrest. This court document, however, only related to the probation violation that occurred in 1997; it does not specify the final outcome of each charge.

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and denied the application on July 23, 2008. On appeal, the applicant submits an additional document from the Los Angeles County Superior Court regarding the October 19, 1994, arrest. This document, however, was previously provided in response to the notice of May 12, 2008. As previously noted, it only relates to the probation violation that occurred in 1997; it does not specify the final outcome of each charge. Further, the applicant has not provided the final court disposition for her August 6, 2003, arrest.

On appeal, the applicant states that she provided the documentation that the court provided to her. However, the applicant has the burden to establish with *affirmative evidence* that the offenses were either dismissed or were in error.

The applicant has failed to provide any evidence revealing the final court dispositions of her arrests detailed above. The applicant is ineligible for TPS because of her failure to provide information necessary for the adjudication of her application. 8 C.F.R. § 244.9(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. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.