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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**

M/

FILE:

Office: VERMONT SERVICE CENTER

Date: **JUN 25 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 office that originally decided your case. 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 office that originally decided your case 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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal.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 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 April 9, 2001. The Director, Texas Service Center, approved that application on March 14, 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 TPS because the applicant had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant states that he is submitting documents from the courts.

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 "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 record reveals the following offenses:

- (1) On January 22, 2007, the applicant was arrested by the Carrollton, Texas Police Department for violating § 550.021 of the Texas Transportation Code "Accident Report False Information."

- (2) On March 31, 2008, the applicant was arrested by the Dallas, Texas Sheriff's Office for a violation of § 550.021 of the Texas Transportation Code "Fail to Stop and Render Aid Inj/Death."

Pursuant to a notice dated April 13, 2009, the applicant was requested to submit the final court disposition for each of the charges detailed above. The applicant failed to submit the requested court documentation. The applicant did submit a letter from [REDACTED] an attorney, who appears to have represented him in criminal matters. According to [REDACTED] at the time there was no disposition in the case because it was a pending matter. [REDACTED] also appears to indicate that the two arrests are related. However, the Federal Bureau of Investigation (FBI) fingerprint report clearly lists two separate arrests for two separate offenses more than a year apart. Therefore, [REDACTED] implication that the two arrests are related is not plausible.

The director withdrew TPS because the applicant had failed to submit evidence necessary for the proper adjudication of the application.

On appeal, the applicant states that he is submitting the requested court documentation. The applicant did submit the final court disposition for the January 22, 2007 arrest which indicated that he was convicted of "Failure to Id Fugitive," a Class A misdemeanor. The judge issued an order of deferred adjudication in this matter on September 18, 2009, with 12 months deferred probation and a fine of \$500.00. There is no evidence in the record that the period of probation has been completed. The applicant, however, has not provided the court disposition for the March 31, 2008 arrest. According to the applicant, he has provided the only disposition available from the court and judge. The applicant has the burden to establish, with **affirmative evidence** that the outstanding charge was dismissed or was in error in number two above.

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 withdraw TPS is 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.