

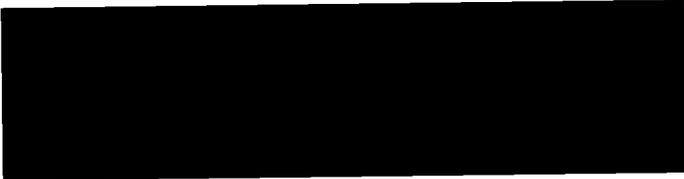
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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Services

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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE: MAR 24 2010

[WAC 02 219 54568]

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 Vermont Service Center. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. §103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office 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 director withdrew the applicant's TPS because the applicant had failed to submit requested court documentation relating to his criminal record.

On appeal, counsel submits the requested court dispositions.

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).

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).

"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.

In response to the Notice of Intent to Withdraw TPS issued on March 31, 2009, the applicant submitted a report from the Police Department in Worthington, Minnesota indicating the applicant was ticketed on October 10, 2004, June 11, 2005, and August 24, 2005, for not having a Minnesota drivers license. The report also indicated that the applicant was ticketed on April 22, 2007, and July 27, 2008 for driving after cancelled.

On appeal, counsel submits court documents which reveal the following:

1. On June 11, 2005, the applicant was arrested and subsequently charged with no Minnesota drivers license, a violation of M.S. section 171.02, a misdemeanor. On June 17, 2005, the applicant pled guilty to the charge and the applicant was ordered to pay a fine. [REDACTED]
2. On August 24, 2005, the applicant was arrested and subsequently charged with no Minnesota drivers license, a violation of M.S. section 171.02, and driving after cancelled, a violation of M.S. section 171.24(3), both misdemeanors. On September 13, 2005, the applicant was found guilty of violating both charges. The applicant was

sentenced to serve 90 days in jail and ordered to pay a fine and was placed on probation for one year. [REDACTED]

3. On April 22, 2007, the applicant was arrested and subsequently charged with driving after cancelled, a violation of M.S. section 171.24(3), a misdemeanor. On May 15, 2007, the applicant was found guilty of violating this charge. The applicant was sentenced to serve 90 days in jail, ordered to pay a fine and was placed on probation. [REDACTED]

4. On or about August 12, 2008, the applicant was arrested and subsequently charged with driving after cancelled, a violation of M.S. section 171.24(3), a misdemeanor. On November 19, 2008, the applicant was found guilty of violating this charge. The applicant was sentenced to serve 90 days in jail, ordered to pay a fine and was placed on probation for one year. [REDACTED]

The applicant is ineligible for TPS due to his five misdemeanor convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The applicant is also ineligible for TPS due to his failure to submit the final outcome of his arrest on October 10, 2004, for no Minnesota drivers license. 8 C.F.R. § 244.9(a). Consequently, the director's decision to withdraw TPS will be affirmed.

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 from the withdrawal of the TPS application is dismissed.