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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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DATE: Office: VERMONT SERVICE CENTER

FILE:

DEC 02 2011

IN RE: Applicant:

APPLICATION: Application for Temporary Protected Status under Section 244 of the
Immigration and Nationality Act, 8 U.S.C. § 1254a

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 \$630. 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,

for

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn and an application for re-registration was simultaneously denied by the Director, Vermont Service Center. The case was remanded by the Administrative Appeals Office (AAO) for further action. The AAO reopened its decision, and pursuant to 8 C.F.R. § 103.5(a)(5)(ii) afforded the applicant 30 days in which to supplement the record. 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 withdrew the applicant's TPS because the applicant had failed to submit requested court documentation relating to his criminal record. On November 26, 2010, the AAO remanded the case as it was determined that the applicant had only one misdemeanor conviction. Upon further review of the record, the AAO determined that the applicant has been convicted of two misdemeanors. The applicant was granted 30 days from September 27, 2011, to respond to the AAO's notice. To date no response has been received.

On appeal, the applicant submitted the requested court disposition and asserted that he did not submit the disposition in response to the notice issued on June 13, 2007, because the final disposition was not rendered until October 2, 2007.

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 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).

"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 that on June 6, 2004, the applicant was arrested by the Irving, Texas Police Department for driving while intoxicated and driving with an invalid license. The court documentation from the Dallas County Criminal Court indicates that on October 2, 2007, the applicant was convicted of driving while intoxicated, a violation of Texas Penal Code section 49.04, and driving while license is suspended/invalid, a violation of Texas Transportation Code section 521.457, both Class B misdemeanors. The applicant was sentenced to serve 75 days in jail for violating Texas Penal Code section 49.04 and ordered to pay a fine of \$100 and sentenced to serve 30 days in jail for violating Texas Transportation Code section 521.457. Cause no.

The applicant is ineligible for TPS due to his two misdemeanor convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The applicant's statements made on appeal have been considered. Nevertheless, there is no waiver available, even for humanitarian reasons, of the requirements stated above. 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.