

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

PUBLIC COPY

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



M<sub>1</sub>

DATE:

DEC 02 2011

Office: VERMONT SERVICE CENTER

FILE:



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 \$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,

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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of [REDACTED] 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 he had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant asserts that he submitted the requested documents in response to the notice of January 7, 2011. The applicant submits copies of the court documents that were previously provided.

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. Section 244(c)(3)(A) of the Act and 8 C.F.R. § 244.14(a)(1).

An alien shall not be eligible for TPS 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. 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 Federal Bureau of Investigation report reveals that the applicant was arrested by the Newark Police Department of New Jersey on September 27, 2001, for burglary and on November 25, 2002, for six counts of criminal mischief.

In response to a notice requesting the applicant to submit certified judgment and convictions documents for all arrests, the applicant submitted for his arrest on September 27, 2001:

- A Financial Questionnaire to Establish Indigency from the municipal courts.
- Court documentation dated September 1, 2006, and January 13, 2011, from the Municipal Court of the City of Newark indicating that the applicant was found not guilty of the offense of theft by unlawful taking, and the case was dismissed on October 31, 2001. Docket no. [REDACTED].

For his arrest on November 25, 2002, for six counts of criminal mischief, the applicant submitted:

- Bail Recognizance form from the [REDACTED] dated November 28, 2002.

- A notice dated January 21, 2003, from the Superior Court of New Jersey, instructing the applicant to appear before the court on February 6, 2003.
- A defendant complaint search dated September 1, 2006, reflecting six complaint numbers in 2002 [REDACTED]
- An information sheet –Letter of Completion, with handwritten notations.

None of the above documents, however, indicates the final outcome of the applicant's arrest on November 25, 2002. The applicant has the burden to establish with affirmative evidence that the outstanding charges were dismissed or were in error. 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). 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 from the withdrawal of the TPS application is dismissed.