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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: DEC 30 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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 on appeal. 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 he had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant submits court documentation pertaining to his arrests on May 13, 2003, and July 9, 2010.

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 term 'conviction' means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, adjudication of guilt has been withheld, where - (i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and (ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed. Section 101(a)(48)(A) of the Act.

The Federal Bureau of Investigation report dated September 21, 2010, reflects the following offenses in the state of California:

- On May 13, 2004, the applicant was arrested by the Sheriff's Office in Norwalk for driving with .08 percent or more alcohol in the blood, a violation of section 23152(b) VC.
- On July 9, 2010, the applicant was arrested by the Los Angeles Police Department for driving under the influence, a violation of section 23152(a) VC.

On December 16, 2010, the applicant was requested to submit certified judgment and conviction documents from the courts for all arrests. The applicant, in response, only submitted a Notice of Class Action Judgment from the Los Angeles County Superior Court.

On June 10, 2011, the director withdrew the applicant's TPS because he failed to submit the requested judgment and conviction documents relating to his arrests.

On appeal, the applicant submits:

1. Court documentation in Case [REDACTED] from the Los Angeles County Superior Court, which reflects that on September 14, 2010, the applicant pled *nolo contendere* to violating section 23152(b) VC, a misdemeanor. The applicant was sentenced to serve 96 hours in jail, ordered to pay a fine and was placed on probation for five years.
2. Court documentation in Case no. [REDACTED] from the Los Angeles County Superior Court, which reflects that on or about May 13, 2003, the applicant was arrested for driving without a license, a violation of section 12500(a) VC. On September 15, 2003, the applicant was charged with this misdemeanor offense. On January 26, 2004, the case was dismissed in furtherance of justice pursuant to section 1385 PC.

The applicant, however, failed to submit the requested court disposition for his arrest on May 13, 2004. It is noted the court documentation in number one indicates that the applicant admitted to a prior conviction of violating section 23152(b) VC in Case no. [REDACTED]. 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.