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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



MA

DATE: **FEB 06 2012** 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:



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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 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, counsel asserts that the applicant sufficiently responded to the director's request and "adequately provided what documents were reasonably available at that time." Counsel cites 8 C.F.R. § 244.14(a)(1) regarding withdrawal of TPS. Counsel submits certified copies of police reports from the Miami-Dade Police Department.

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 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 March 16, 2010, reveals the following offenses in the state of Florida:

1. On September 21, 2003, the applicant was arrested by the highway patrol in Miami for driving under the influence.
2. On December 6, 2008, the applicant was arrested under a bench warrant by the Miami-Dade Police Department for no valid driver's license.

In response to the Notice of Intent to Withdraw TPS issued on December 20, 2010, which requested the applicant to submit certified judgment and conviction documents from the courts for all arrests, the applicant submitted:

- A Notice of Court Appearance mailed May 18, 2010, from the County Court of Dade County Traffic Courts Division, which notified the applicant that the misdemeanor cases in [REDACTED] were set for a hearing on June 2, 2010. The notice also listed Case number [REDACTED] which was a separate action, requiring the applicant to attend court.
- A case summary from the [REDACTED] in Case no. [REDACTED]

The director determined that the documents submitted were deemed insufficient and concluded that the applicant had failed to submit the required evidence necessary for the proper adjudication of the application. Accordingly, on May 4, 2011, the director withdrew the applicant's TPS.

On appeal, counsel submits:

- Complaint/Arrest Affidavit from the Miami-Dade Police Department, which indicated that on September 21, 2003, the applicant was arrested for driving under the influence.
- Miami-Dade County jail booking record, which reflects that on September 22, 2003, a disposition was handed down in Case no. [REDACTED]. However, it is not clear what the judgment was as the report indicates "[REDACTED] \$2000 - [REDACTED]."
- Complaint/Arrest Affidavit from the Miami-Dade Police Department, which indicated that on December 6, 2008, the applicant was arrested under bench warrant for no valid driver's license offense that occurred on March 23, 2004.
- Miami-Dade County jail booking record, which reflects that on December 7, 2008, a *nolle prosequi* was entered for the charge of no valid driver's license. Case no. [REDACTED].

The applicant has failed to provide the requested judgment and conviction documents from the court revealing the final court disposition of his arrest on September 21, 2003. The applicant has also failed to provide the final dispositions in the Case numbers [REDACTED] and [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.