

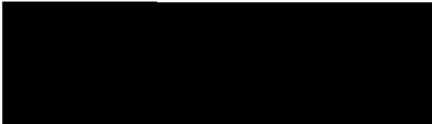
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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DATE: **MAR 13 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: 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.

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 sustained.

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 a court document from the Los Angeles County Superior Court.

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).

"Felony" means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term actually served, if any. There is an exception when the offense is defined by the state as a misdemeanor and the sentence actually imposed is one year or less, regardless of the term actually served. Under this exception, for purposes of 8 C.F.R. § 244 of the Act, the crime shall be treated as a misdemeanor. 8 C.F.R. § 244.1.

An alien is inadmissible if he has been convicted of, or admits having committed, or admits committing acts which constitute the essential elements of a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 USC § 802). Section 212(a)(2)(A)(i)(II) of the Act.

The Federal Bureau of Investigation report dated March 17, 2010, reflects that on January 15, 2010, the applicant was arrested by the Pasadena Police Department of California for possession of marijuana for sale, producing marijuana and "plant/etc. marijuana".

On January 31, 2011, the applicant was requested to submit the certified judgment and convictions documents from the courts for all arrests including the arrest on January 15, 2010. The applicant, in response, submitted a clearance letter from the Pasadena Police Department. The clearance letter informed the applicant that he was to contact the Pasadena Municipal Court for the disposition.

The director concluded that the requested court disposition had not been provided, and on June 14, 2011, withdrew the applicant's TPS.

On appeal, the applicant submits documentation dated June 27, 2011, from the Los Angeles County Superior Court, which indicates that a review of its criminal indexes for Los Angeles County and record of the court found no criminal record in the applicant's name for violating section 11359 H&S on January 15, 2010.

The applicant, on appeal, has provided primary evidence from a relevant government authority that serves as the custodians of records, indicating that no record of conviction exists. The applicant has overcome the sole basis for the withdrawal of his TPS. As there are no other known grounds of ineligibility, the director's decision to withdraw the applicant's TPS will, itself, be withdrawn,

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 met this burden.

ORDER: The appeal is sustained.