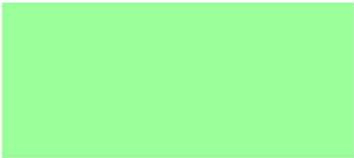


(b)(6)

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



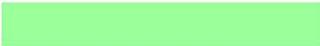
U.S. Citizenship
and Immigration
Services



DATE: **FEB 07 2013**

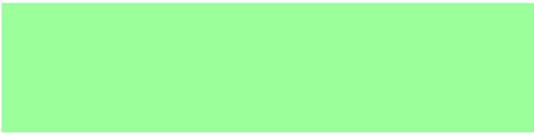
Office: VERMONT SERVICE CENTER

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:

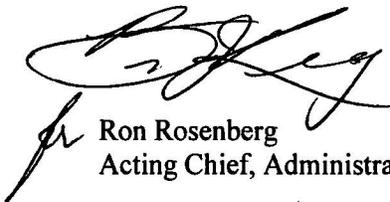


INSTRUCTIONS:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Ron Rosenberg
Acting 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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 in response to the notice of February 4, 2011, the applicant provided certified court documents relating to his two arrests in 2010. Counsel states that the case relating to the applicant's January 8, 2010 arrest is still pending and, therefore, the applicant cannot submit documentation that does not exist. Counsel states that the applicant returns to court on April 9, 2012 for a final disposition. Counsel claims that the applicant's arrest on February 16, 2010, did not result in a conviction as the charge was dismissed.

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 of October 21, 2010 reveals the following offenses in the state of Virginia:

1. On January 8, 2010, the applicant was arrested by the [REDACTED] Department for two counts of assault on a family member.
2. On February 16, 2010, the applicant was arrested by the [REDACTED] Department for failure to appear.

In response to the notice issued on February 4, 2011, which requested the applicant to submit certified judgment and conviction documents from the courts for all arrests, the applicant provided:

- Probation documentation dated April 7, 2010 in Case no. [REDACTED] from the Juvenile and Domestic Relations District Court, which indicated the applicant was ordered to complete a domestic violence intervention group program and that he was to return to court on April 9, 2012.
- Court documentation in Case no. [REDACTED] from the Juvenile and Domestic Relations District Court, which indicated that the applicant was charged with failure to appear on January 11, 2010. On July 7, 2010, the charge was dismissed.
- A printout of Virginia Criminal Code section 18.2-57 and a case law decision from the United States Court of Appeals for the Fourth District.

The director determined that the applicant had failed to submit evidence necessary for the proper adjudication of the application and withdrew the applicant's TPS on April 21, 2011.

On appeal, counsel submits copies of court documents that were previously provided in response to the notice of February 4, 2011, along with:

- Court documentation in Case no. [REDACTED] from the [REDACTED] which indicates that on December 6, 2011, the charge of violating Virginia Code 18.2-27/18.2-96 was *nolle prosequi*.
- Court documentation in Case no. [REDACTED] from the [REDACTED] which indicates that on December 6, 2011, the charge of violating Virginia Code 13-254/46.2-301 was *nolle prosequi*.

The court documentation in Case no. [REDACTED] corroborates counsel's statement that the applicant had a court hearing on April 9, 2012. However, more than nine months later, the final court judgment for the charge of two counts of assault on a family member has not been submitted.

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 is dismissed.