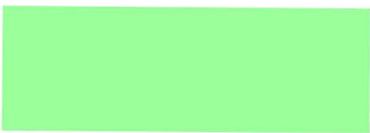




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **MAR 26 2013**

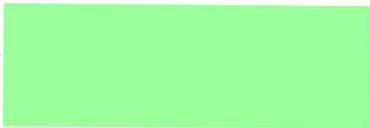
Office: VERMONT SERVICE CENTER

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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, the applicant asserts that he has provided any and all information that is available to him in a reasonable manner. The applicant states, "[i]t is an extreme hardship to expect a person residing in Annapolis, Maryland to obtain court records from Doraville or Gwinneat [sic] County in Georgia." The applicant indicates at Part 2 on the appeal form that a brief and/or additional evidence would be submitted to the AAO within 30 days.¹ However, more than seven months later, no additional correspondence has been presented by the applicant. Therefore, the record must be considered complete.

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.

¹ Every appeal submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. 8 C.F.R. § 103.2(a)(1). The Form I-290B instructs the applicant to submit a brief and additional evidence to the AAO within 30 days of filing the appeal.

The Federal Bureau of Investigation report dated January 9, 2012, reveals the following offenses in the state of Georgia:

1. On February 2, 1998, the applicant was arrested by the Doraville Police Department for driving under the influence of alcohol, a misdemeanor.
2. On May 31, 1998, the applicant was arrested by the Gwinnett County Police Department for willful obstruction of law enforcement officers and giving false name, address or birthdate to law enforcement, both misdemeanors.

In response to the notice issued on March 15, 2012, which requested the applicant to submit certified judgment and conviction documents from the courts for all arrests, the applicant's counsel submitted a letter stating, in pertinent part:

I believe my client was not convicted of the alleged offenses. I have requested and to date, I have been unable to obtain records of the alleged convictions. It is my client's contention that in 1998 he was found guilty by a Court of Law of the alleged offenses. It appears that any records that may exist, do not substantiate a conviction. Accordingly, my client is unable to provide certified records of the alleged convictions.

The director determined that the applicant had failed to submit evidence from the courts to corroborate counsel's letter. The director concluded that the applicant failed to submit evidence necessary for the proper adjudication of the application and withdrew the applicant's TPS on June 25, 2012.

The applicant has the burden to establish with *affirmative evidence* that the above offenses were either dismissed or were in error. A letter from counsel is not affirmative evidence and fails to meet the applicant's burden. Thus, contrary to the assertion made on appeal, the applicant did not submit sufficient evidence to establish the final court dispositions of his arrests in 1998. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

The applicant has failed to provide any evidence revealing the final court dispositions of his arrests detailed above. 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.