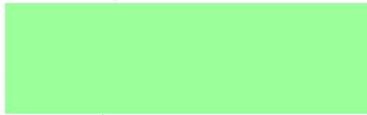




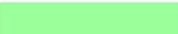
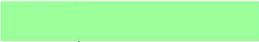
U.S. Citizenship  
and Immigration  
Services

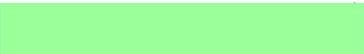
(b)(6)



DATE: **MAR 26 2013**

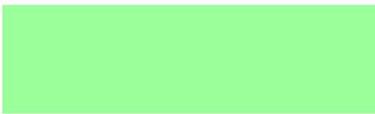
Office: VERMONT SERVICE CENTER

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:

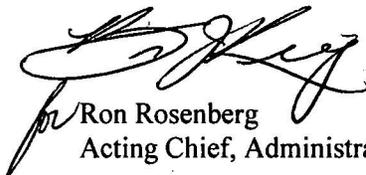


INSTRUCTIONS:

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, counsel states that the applicant has only one misdemeanor conviction and provides copies of the court documents that were previously submitted.

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 January 11, 2012, reveals the following offenses:

1. On October 25, 2003, the applicant was arrested by the Houston Police Department of Texas for driving while intoxicated.
2. On April 2, 2010, the applicant was arrested by the Houston Police Department of Texas for driving while intoxicated - 2<sup>nd</sup> offense.
3. On November 13, 2010, the applicant was arrested by the Sheriff's Office of Phillips County, Montana for criminal mischief and disorderly conduct.

In response to the notice issued on June 12, 2012, which requested the applicant to submit certified judgment and conviction documents from the courts for all arrests, the applicant submitted certified court documentation from the Harris County District Clerk of Texas, which indicates:

- On June 15, 2010, the charge of driving under the influence – 2<sup>nd</sup> offense was dismissed. Case no. [REDACTED]
- On January 15, 2004, the applicant pled guilty to driving under the influence – 1<sup>st</sup> offense, a violation of Texas Penal Code 49.04(a), a misdemeanor. The applicant was sentenced to serve 180 days in jail, ordered to pay a fine and was placed on probation for 11 months. Case no. [REDACTED]

The director determined that the applicant had failed to submit the requested court disposition for his arrest on November 13, 2010. 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 12, 2012.

The court documents submitted in response to the notice of June 12, 2012 and on appeal only serve to establish the applicant's offenses committed in the state of Texas. The requested court disposition for the applicant's arrest on November 13, 2010 in Phillips County, Montana 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 from the withdrawal of the TPS application is dismissed.