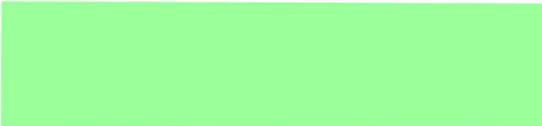




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **OCT 29 2014**

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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn and an application for re-registration was simultaneously denied by the Director, Vermont Service Center. The applicant has appealed the denial of his re-registration application.<sup>1</sup> The matter is now before the Administrative Appeals Office (AAO). 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. On March 13, 2014, the director denied the re-registration application because the applicant had been convicted of two misdemeanors in the United States. The director also denied the re-registration application because the applicant failed to submit evidence to establish that he had successfully re-registered for TPS status during the previous re-registration period.

On appeal, the applicant asserts that his conviction of June 4, 2010 is not a criminal offense as it is a vehicle code infraction payable by a simple fine of \$100. The applicant states that there "is no finding of guilt or admission of guilty it is stricted [sic] liability crime wherein no intent is need [sic] for conviction as other traffic offense are."

An alien who has been granted TPS must re-register periodically in accordance with U.S. Citizenship and Immigration Services (USCIS) instructions. 8 C.F.R. § 244.17(a). TPS shall be withdrawn if the alien fails, without good cause, to register. USCIS may, for good cause, accept and approve an untimely registration request. 8 C.F.R. § 244.17(b).

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).

"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.

Section 101(a)(48)(B) of the Act provides, "any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered

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<sup>1</sup> The applicant listed the receipt number of the current Form I-821 on the appeal form.

by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part.”

The first issue to be addressed is the applicant’s failure to re-register during the designated re-registration period during 2012.

On October 31, 2013, a notice was issued, which advised the applicant that USCIS has no record of a re-registration application being filed subsequent to August 17, 2010. The applicant was requested to submit evidence that he had re-registered for TPS during the re-registration period of January 9, 2012 to March 12, 2012, or submit evidence that he had good cause for failing to re-register. The applicant, in response only provided evidence relating to his criminal record.

The director withdrew TPS, in part, as the applicant failed to submit any evidence or good cause why he did not re-register for TPS during the re-registration period of January 9, 2012 to March 12, 2012.

While the record reflects that the applicant filed a re-registration application on August 17, 2010 during the re-registration period of July 9, 2010 to September 7, 2010, there is no evidence in USCIS database that a re-registration application was filed during next re-registration period of January 9, 2012 to March 12, 2012. Throughout this application process, the applicant fails to provide a good cause for failing to re-register during this re-registration period. Therefore, the current application cannot be considered under good cause exception grounds. Consequently, the director's decision to withdraw TPS for failing to re-register for TPS during the allotted time period in 2012 will be affirmed.

The second issue to be addressed is the applicant’s criminal history in the United States.

The Federal Bureau of Investigation report reflects the applicant’s criminal history in the state of Nevada as follows:

1. On March 23, 2006, the applicant was arrested by the Sheriff’s Office in [REDACTED] for driving under the influence of alcohol.
2. On June 4, 2010, the applicant was arrested by the Sheriff’s Office in [REDACTED] for fail to drive within marked lanes and driving under the influence.

On October 31, 2013, the applicant was also requested to provide certified judgment and conviction documents from the court(s) for all arrests. The applicant, in response, submitted:

- Certified court documentation from the Justice Court of [REDACTED] [REDACTED] which indicates that on July 31, 2006, the criminal complaint was amended to a charge of carelessly driving, a violation of WCC 70.877, a misdemeanor. The applicant pled guilty to this offense and was ordered to pay a fine, court costs and attend a victim impact panel. Case no. [REDACTED]

- Certified court documentation from [REDACTED] Justice Court, [REDACTED] County, which indicates that on July 6, 2010, the criminal complaint of driving under the influence was amended to a charge of failure to maintain lane, a violation of NRS 484.305, a misdemeanor. The applicant pled guilty to and was adjudged guilty of the offense and was ordered to pay a fine, court costs and attend a victim impact panel. The applicant was credited for time served. Case no. [REDACTED]

The applicant's assertions on appeal are not supported by the record. The certified document clearly indicates that the court deemed the offense of failure to maintain lane to be a misdemeanor and that the applicant plead guilty to the charge. This office is not the proper forum for disputing the validity of a state conviction, and we do not have authority to look beyond the record of conviction when determining an applicant's eligibility for TPS.

The applicant is ineligible for TPS due to his misdemeanor convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to deny the re-registration application for this reason will also be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.

Finally, while not the basis for the dismissal of the appeal, it is noted that the record reflects that a hearing was held on February 16, 2000, and the applicant was ordered removed from the United States. The applicant appealed the Immigration Judge's decision to the Board of Immigration Appeals (BIA). On December 23, 2003, the BIA dismissed the appeal.

**ORDER:** The appeal is dismissed.