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

(b)(6)

U.S. Citizenship and Immigration Services

DATE: FEB 18 2015 Office: VERMONT SERVICE CENTER

IN RE: Applicant:

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT:

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. .

Thank you,

for Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The Administrative Appeals Office (AAO) dismissed the subsequent appeal, and affirmed its decision on motion to reopen and motion to reconsider. The matter is again before the AAO on a second motion to reopen and motion to reconsider. The motion to reconsider will be denied and the motion to reopen will be granted. The previous decisions of the director and the AAO will be withdrawn and the case will be remanded for further consideration and action.

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. § 1254a. The director withdrew TPS because the applicant had failed to submit requested court documentation relating to his arrests on July for aggravated assault and on February for driving without a valid driver's license. *See Decision of the Director* dated July 26, 2012. In dismissing the appeal we concurred with the director's findings. *See Decision of the AAO* dated May 15, 2013. On motion, we affirmed our decision as the applicant had only provided evidence relating to his arrest on July *See Decision of the AAO*, dated April 9, 2014.

A motion to reconsider must state the reason for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Service (USCIS) policy ... [and] must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The motion is not supported by pertinent precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy, and it does not establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

On current motion, counsel submits the requested court documentation from the City of Municipal Court, which indicates that on March pled guilty to violating Georgia Code § 40-5-20, no driver's license - 1st offense.

Although the court documentation did not indicate the applicant's sentence for this conviction, a first offense of driving without a license is deemed a misdemeanor and the punishment for violating this offense is by imprisonment for not less than two days nor more than twelve months and a fine of not less than $500 nor more than $1,000. Georgia Code § 40-5-121(a).

The evidence of record reflects that the applicant has one misdemeanor conviction and it does not render him ineligible for TPS under the provisions of section 244(c)(2)(B)(i) of the Act and

the related regulation in 8 C.F.R. § 244.4(a). There are no other known grounds of ineligibility. Therefore, the decisions of the director and of the AAO will be withdrawn.

The record, however, reflects that the validity period of the applicant's fingerprint check has expired.

Accordingly, the case will be returned for the purpose of sending the applicant a fingerprint notification form, and affording him the opportunity to comply with its requirements. Following completion of this requirement, the director will render a new decision. Should the decision be adverse, the director must give written notice setting forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i).

ORDER: The motion is granted. The previous decisions of the director and the AAO are withdrawn. The case is remanded for further action consistent with this decision.