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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



Date: **MAY 07 2015**

Office: VERMONT SERVICE CENTER FILE:

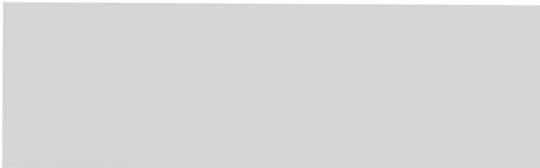


IN RE: Applicant:



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

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The applicant has appealed the decision and the matter is now before the Administrative Appeals Office (AAO). The appeal will be sustained.

The applicant is a 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. On March 11, 2014, the Acting Center Director withdrew the applicant's TPS because he failed to provide evidence regarding the final disposition of his arrest in 1998. *See Decision of the Acting Center Director*, dated March 11, 2014.

On appeal, the applicant submits records from the [REDACTED] Police Department regarding his arrest on May 21, 1998.

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. 8 C.F.R. § 244.14(a)(1).

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. 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.

On September 9, 2013, the director issued a notice requesting the applicant to submit certified judgment and conviction documents for his arrest by the [REDACTED] Police Department for being charged as a fugitive from justice.

On appeal, the applicant submits a copy of the [REDACTED] Police Department Investigation Report dated May 21, 1998, stating the applicant was arrested as a fugitive from the Immigration and Naturalization Service (INS). A copy of the arrest report indicates that the applicant was wanted by the INS for deportation and was arrested and "held on the INS detainer" rather than being charged with a crime. Immigration records indicate that he was deported to El Salvador on June 10, 1998.



The evidence of record reflects that the applicant has no misdemeanor or felony convictions under the related regulations in 8 C.F.R. § 244.4(a), and there are no other known grounds of ineligibility. Therefore, the appeal will be sustained.

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 met this burden.

ORDER: The appeal is sustained