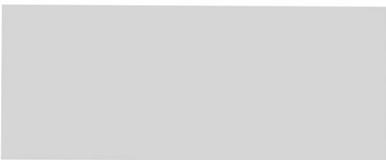




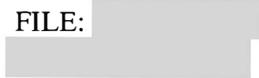
U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **MAY 08 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. § 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.

Thank you,

A handwritten signature in black ink that reads "Ron Rosenberg".

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn and an application for re-registration was simultaneously denied by the Acting Director, Vermont Service Center. The applicant has appealed the decision and the matter is now before the Administrative Appeals Office (AAO) for review. 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. § 1254. On March 10, 2014, the acting director withdrew TPS because the applicant had failed to submit requested court documentation relating to his criminal record.

On appeal, the applicant submits the requested court documentation.

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. 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 record reflects that the applicant has two arrests. On [REDACTED] 2012, the applicant was arrested by the [REDACTED] Police Department, for one count of battery upon a spouse, under California Penal Code (CPC) section 242-243(e)(1). On [REDACTED] 2012 the applicant was again arrested by the [REDACTED] Police Department and charged with one count of inflicting corporal injury upon spouse/cohabitant under CPC section 273.5(a) and one count of battery upon a spouse, under CPC section 242-243(e)(1).

In response to the Notice of Intent to Deny issued on December 16, 2013, which requested certified judgment and conviction documents for any arrests, the applicant submitted certified court documentation from the Superior Court of [REDACTED] California relating to his arrest on [REDACTED] 2012. That court documentation indicates that on [REDACTED] 2012, the applicant pled nolo contendere to and was adjudged guilty of violating CPC section 242-243(e)(1), domestic battery, a misdemeanor. Imposition of sentence was suspended and the applicant was placed on probation for three years, ordered to serve 30 days in jail and pay court costs. The remaining charge, inflicting corporal injury upon spouse under CPC section 273.5(a) was dismissed. The applicant did not provide the documentation necessary to show how his [REDACTED] 2012 arrest was resolved.

On appeal, the applicant submits a letter dated April 2, 2014, from the assistant city attorney for the [REDACTED] who indicates that a review of the police report relating to the applicant's arrest on [REDACTED] 2012 for domestic battery was rejected for criminal filing.

The applicant's failure to submit the requested final disposition for his arrest on [REDACTED] 2012 has been overcome on appeal. 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 regulations in 8 C.F.R. § 244.4(a). Therefore, the acting director's decision to deny the re-registration application and to withdraw TPS will be withdrawn.

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

Accordingly, the case will be remanded 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 case is remanded to the director for further action consistent with the above and entry of a decision.