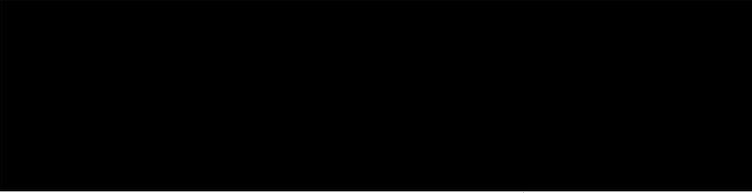




U.S. Citizenship
and Immigration
Services

MI



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

SEP 30 2004

IN RE:

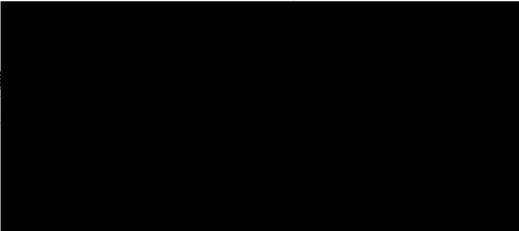
Applicant:



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:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

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**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

DISCUSSION: The application was denied by the Director, California Service Center. The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who indicated on his application that he entered the United States in 1989 without a lawful admission or parole.

The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because he found that the applicant had been convicted of two misdemeanor offenses.

On appeal, the applicant requests "another chance" and states that he had "been behaving" since his last conviction in 1997.

An alien shall not be eligible for temporary protected status under this section if the Attorney General 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.

"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.

Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible. Section 212(a)(6)(C) of the Act.

The record reveals the following offenses in California:

1. On June 14, 1992, the applicant was arrested for driving with a blood alcohol level of .08 percent or more in violation of section 23152(b) VC. (Docket #92V07750). On July 9, 1992, the applicant was convicted of this misdemeanor and was placed on probation for a period of 36 months.
2. On March 13, 1997, the applicant was arrested for carrying a loaded firearm in violation of section 12031(a)(1) PC. (Docket #97RH02177). On April 14, 1997, the applicant pled guilty to this misdemeanor and was placed on probation for a period of two years.

The applicant is ineligible for temporary protected status due to his record of two misdemeanor convictions, detailed above. 8 C.F.R. § 244.4(a). Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, the record reveals that the applicant, under penalty of perjury, fraudulently indicated on Part 4, Line 2.a., and d., of his application for TPS that he had not been convicted of two misdemeanors and that he had never been arrested. This misrepresentation of a material fact in an

application for immigration benefits would also render the applicant inadmissible under section 212(a)(6)(C) of the Act.

An alien applying for temporary protected status 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 is dismissed.