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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **AUG 23 2007**
[WAC 05 210 70906 as it relates to LIN 01 211 50396]

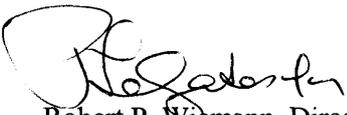
IN RE: Applicant: [REDACTED]

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:

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, Director
Administrative Appeals Office

DISCUSSION: Approval of the applicant's Temporary Protected Status (TPS) application was withdrawn and the re-registration application was denied by the Director, California Service Center (CSC). The case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who was granted TPS under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. The CSC director subsequently withdrew the applicant's TPS and denied the re-registration application, when it was determined that the applicant has been convicted of a felony or two or more misdemeanors committed in the United States.

The record reveals that on May 31, 2002, the Director, Nebraska Service Center approved the application for TPS. The record also reveals that the applicant subsequently applied to re-register for TPS on April 28, 2005. On September 1, 2005, the CSC director mailed to the applicant a Notice of Intent to Withdraw his TPS and requested that the applicant submit court dispositions for several arrests. The applicant submitted his response on October 3, 2005. On July 7, 2006, the CSC director determined that the applicant was ineligible for TPS, denied his re-registration application and withdrew his TPS. The applicant filed the current appeal on December 4, 2006.

On appeal, the applicant states that he had moved and misplaced the first notice. Her further states that upon receipt of the second notice, he obtained the documents requested. He also submits court transcripts of his arrests.

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).

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f) (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or

- (2) During any subsequent extension of such designation if at the time of the initial registration period:
- (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

An alien shall not be eligible for temporary protected status 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).

8 C.F.R. § 244.1 defines "felony" and "misdemeanor:"

Felony means a crime committed in the United States, punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except: When the offense is defined by the State as a misdemeanor and the sentence actually imposed is one year or less regardless of the term such alien actually served. Under this exception for purposes of section 244 of the Act, the crime shall be treated as a misdemeanor.

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.

The record reveals the following offenses:

- (1) On April 12, 2000, the applicant was convicted of operating a vehicle while intoxicated (Case number [REDACTED]), a misdemeanor.

- (2) On April 12, 2000, the applicant was convicted of never receiving a license (Case number [REDACTED] a misdemeanor.
- (3) On August 26, 2002, the applicant was convicted of never receiving a license (Case number [REDACTED] a misdemeanor.
- (4) On January 20, 2004, the applicant was convicted of criminal conversion (Case number [REDACTED], a misdemeanor.
- (5) On March 1, 2004, the applicant was convicted of operating a vehicle while intoxicated (Case number [REDACTED], a felony.
- (6) On March 1, 2004, the applicant was convicted of operating a vehicle while intoxicated (Case number [REDACTED], a felony.

On appeal, the applicant states that he had moved and misplaced the first notice. He further states that upon receipt of the second notice, he obtained the documents requested. He also submits court transcripts of his arrests.

The applicant is ineligible for TPS due to his record of a felony or two or more misdemeanor convictions as detailed above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to withdraw the applicant's TPS and to deny the re-registration application will be affirmed.

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.