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U.S. Citizenship  
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**JAN 25 2007**

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 112 72444]

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:

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.

A handwritten signature in cursive script, appearing to read "R. Wiemann for".

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The applicant claims to be a citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that the applicant filed a TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 01 173 52180. The applicant's Federal Bureau of Investigation (FBI) fingerprint results report revealed the following offenses:

- A. On March 2, 1997, the applicant was arrested in Santa Ana, California, and charged with one count of assault on person in violation of section 240 PC, a misdemeanor, and one count of battery in violation of section 242 PC, a misdemeanor. The record indicates that the applicant was convicted of both charges in the Municipal Court, Westminster, California.
- B. On April 22, 1999, the applicant was arrested in Westminster, California, and charged with petty theft in violation of section 484/488 PC, a misdemeanor. The applicant was convicted of this charge in the Municipal Court, Westminster, California.
- C. On November 26, 2003, the applicant was arrested in Westminster, California, and charged with attempted murder in violation of section 187(a) PC, a felony.

The director denied that application on April 20, 2005, because he found the applicant had been convicted of two or more misdemeanors. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 20, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the applicant, on appeal, provides a court document reflecting the final court disposition of the offense detailed in No. (C) above. The court indicates that the applicant was originally charged with: (1) attempted murder in violation of section 664-187(a) PC, a serious felony; (2) inflicting corporal injury on a spouse or cohabitant in violation of section 273.5(a) PC, a felony; and, (3) battery, in violation of section

243(e)(1) PC, a felony. On June 16, 2003, the Superior Court of California, County of Orange, charged Count (2) as assault with a deadly weapon with likelihood of inflicting grave bodily injury in violation of section 245(a)(1) PC, a felony. On November 26, 2003, the court amended the complaint by interlineation to add as count (4) inflicting corporal injury on a spouse or cohabitant in violation of section 273.5 (a) PC, a felony. Counts (1), (2), and (3) were dismissed on motion of the people, and the applicant pled guilty to count 4, inflicting corporal injury on a spouse or cohabitant in violation of section 273.5(a) PC, a felony. The applicant was placed on three years formal probation and ordered to serve 364 days in the Orange County Jail; to pay a \$200 domestic violence fee; to pay a \$50.00 donation to a battered women's shelter; to complete eight hours of community service as directed by his probation officer; to attend and complete a 52-week anger management program; and, to have no contact with his wife, Evelyn Salmeron, either directly or indirectly, except through an attorney of record. The applicant is ineligible for TPS because of his record of three misdemeanor convictions and one felony conviction. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Therefore, the application also must be denied for this reason. It is noted for the record that any further TPS applications filed by the applicant will also be denied for the same reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.