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U.S. Citizenship  
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: JUL 30 2007  
[WAC 01 203 2004]

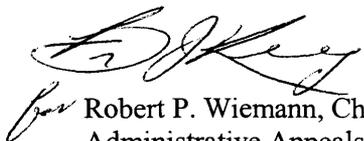
IN RE: Applicant: [REDACTED]

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.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal.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 Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on February 2, 2004. The director subsequently withdrew the applicant's TPS on October 12, 2006, because the applicant had been convicted of two misdemeanor offenses.

The director may withdraw the status of an alien granted TPS at any time if it is found 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. Section 244(c)(3)(A) of the Act and 8 C.F.R. § 244.14(a)(1).

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

The record reveals that the applicant filed his initial TPS application on May 7, 2001. The TPS application was approved on February 2, 2004. On March 1, 2005, the applicant filed a re-registration application for TPS under Citizenship and Immigration Services (CIS) receipt number WAC 05 152 77100. On June 3, 2005, the applicant was requested to submit the final court dispositions of all of his arrests, including the arrest listed on the Federal Bureau of Investigation fingerprint results report. In response, the applicant submitted the records of the Superior Court of the State of California, County of Orange, under Case No. [REDACTED], indicating that on April 6, 2005, the applicant was convicted of Count 1, driving under the influence of alcohol and/or drugs, 23152(a) VC, a misdemeanor; and Count 2, driving with .08 percent blood alcohol level or more, 23152(b) VC, a misdemeanor. Based on the applicant's two misdemeanor convictions, the director denied the TPS application on July 25, 2006. The applicant appealed the director's decision to the AAO on September 8, 2005. The AAO affirmed the director's decision and dismissed the appeal on July 25, 2006.

It is noted that the director prematurely denied the TPS re-registration application, prior to the adjudication of the initial TPS application. However, on October 12, 2006, the director ultimately withdrew the initial TPS application because the applicant was ineligible for TPS based on his two misdemeanor convictions. A remand of this case to the director based on premature denial of the re-registration application would not overcome the withdrawal of the applicant's initial TPS application because the applicant remains ineligible for TPS based on his two misdemeanor convictions.

The applicant appealed the director's decision to deny the initial application on October 27, 2006. The applicant resubmitted copies of the court documents relating to his two misdemeanor convictions. He indicated that he is sending a brief and/or evidence within 30 days; however, to date, no additional statement or evidence has been provided.

The applicant is ineligible for TPS due to his two misdemeanor convictions, listed 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 will be affirmed.



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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.