



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
[EAC 01 164 52229]

Office: VERMONT SERVICE CENTER

Date: JUL 31 2007

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:

[REDACTED]

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.

*Cindy M. Gomez*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was granted and later was withdrawn by the Director, Vermont Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the application will be approved.

The applicant is a native and citizen of El Salvador who was granted Temporary Protected Status on March 4, 2002. The director subsequently withdrew the applicant's Temporary Protected Status on November 2, 2005, when it was determined that the applicant had been convicted of two or more misdemeanors.

The director may withdraw the status of an alien granted Temporary Protected Status 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).

On appeal, counsel states that the applicant has been convicted of only one misdemeanor, and is therefore eligible for TPS.

The record of proceeding shows that the applicant was convicted in California on November 17, 1994, on a charge of battery, a misdemeanor. The record also shows that the applicant was arrested on March 4, 2005, in the state of New Jersey, and charged with shoplifting, which carried a penalty of 18 months and/or a fine of up to \$500.00. The record further shows that the applicant was convicted on May 10, 2005, on a charge of breach of the peace, a lesser-included offense of shoplifting. The lesser-included offense is a violation of a municipal ordinance (N.J. Mun. Ord. 3-10) that is punishable by a fine of up to \$800.00, and the charge carries no jail time. Therefore, the record shows that the applicant has only been convicted of one misdemeanor offense.

Since the applicant has overcome the sole ground for the withdrawal of his initial application for TPS, that decision has been withdrawn. The record of proceeding contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any other grounds that would bar the applicant from receiving TPS. Therefore, the director's withdrawal is withdrawn, and the initial application will be approved.

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 met this burden.

**ORDER:** The director's withdrawal of the initial application is, itself, withdrawn. The initial application is approved. The appeal is sustained.