



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



M1

FILE: 
[EAC 02 088 50560]

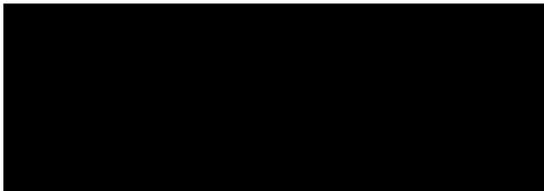
Office: VERMONT SERVICE CENTER

Date: **SEP 04 2007**

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, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal.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 dismissed.

The applicant is a native and citizen of El Salvador who was granted Temporary Protected Status on October 8, 2002. The director subsequently withdrew the applicant's Temporary Protected Status on January 12, 2006, when it was determined that the applicant had failed to submit final court dispositions stemming from his arrests in 2003 and 2004.

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, the applicant claims his eligibility for TPS.

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 in Maryland:

- On April 3, 2003, the applicant was arrested by officers of the Annapolis Police Department and charged with 2nd degree assault.

- On December 17, 2004, the applicant was arrested by officers of the Hyattsville Police Department and charged with possession with intent to distribute a controlled substance.

On appeal, the applicant submits a disposition report from the District Court of Maryland that shows the applicant was convicted of 2nd degree assault, a felony, on July 11, 2003, under case # [REDACTED]. He also submitted a disposition report from the Circuit Court of Prince George's, Maryland, dated June 17, 2005, indicating that a criminal charge brought against him was not going to be prosecuted. However, there is no evidence to suggest that this document relates to any of the charges detailed above.

The applicant has failed to provide any evidence revealing the final court disposition of his [arrest] detailed above. The applicant is ineligible for temporary protected status because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a).

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.