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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE:



[SRC 01 174 56186]

OFFICE: CALIFORNIA SERVICE CENTER DATE: FEB 01 2008

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 California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status (TPS) was withdrawn and an application for re-registration was simultaneously denied due to abandonment by the Director, California Service Center. The matter 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 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 director determined that the applicant had abandoned his re-registration application by failing to submit the requested court records pertaining to his criminal history. The director withdrew the applicant's TPS pursuant to 8 C.F.R. § 244.14(a)(3) because the applicant had failed to successfully re-register. However, the director should have withdrawn TPS pursuant to 8 C.F.R. § 244.14(a)(1) because the applicant, by failing to provide requested court records necessary for the adjudication of his application, had become ineligible for TPS.

On appeal, the applicant asserts that he never received the Notice to Withdraw TPS dated September 22, 2005. The applicant claims that he has only one misdemeanor conviction.

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. 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).

"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. 8 C.F.R. § 244.1.

On appeal, the applicant submits court dispositions which reveal the following offenses in the state of Florida:

1. On October 10, 1995, the applicant was arrested by the Metro-Dade Police Department for driving under the influence, a violation of statute FL316.193, and driving without a license, a violation of statute FL322.03(1), both misdemeanors. On December 1, 1995, the applicant pled *nolo contendere* to violating statute FL316.193. The applicant was ordered to serve two days in jail, ordered to pay a fine and placed on probation for six months. The outcome of the remaining offense is not known. Case no. [REDACTED]
2. On June 18, 2000, the applicant was charged with vessel unnumbered. On July 18, 2000, the applicant received a civil penalty and the case was closed. Case no. [REDACTED]
3. On April 24, 2003, the applicant was arrested by the Sheriff's Office in Broward County for attach registration license plate not assigned, a violation of statute FL320.261, failure to register vehicle, a violation of statute FL320.02(1), and driving while license is suspended, a violation of statute FL322.34(2a), all misdemeanors. On June 3, 2003, the applicant pled

[REDACTED]

*nolo contendere* to violating statutes FL320.261, and FL322.34(2a). The applicant was ordered to pay a fine for violating statute FL322.34(2a). Adjudication of guilt was withheld for violating statute FL320.02(1). Case no. [REDACTED]

4. On October 9, 2004, the applicant was arrested by the Hialeah Police Department for simple battery, a violation of statute FL784.03, a misdemeanor. On December 15, 2005, the prosecutor entered *nolle prosequi* for this offense. Case no. [REDACTED]
5. On April 24, 2005, the applicant was charged with driving while license is suspended, a violation of statute FL322.34(2), a misdemeanor. On June 29, 2005, the charge was dismissed. Case no. [REDACTED]

The applicant is ineligible for TPS due to his three misdemeanor convictions detailed above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Therefore, in accordance with 8 C.F.R. § 244.14, the director's decision to withdraw the applicant's TPS is affirmed.

It is noted for the record that on May 7, 1993, the applicant filed a Form I-589, Application for Asylum and Withholding of Removal. On March 30, 1999, an immigration judge (IJ) ordered the asylum application withdrawn and granted the applicant voluntary departure in lieu of removal on or before April 30, 1999. On May 19, 1999, the applicant appealed the IJ's decision to the Board of Immigration Appeals (BIA). On June 26, 2001, the case was administratively closed because of a finding that the applicant was eligible for TPS.<sup>1</sup>

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.

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<sup>1</sup> Administrative closing of a case does not result in termination of the proceedings. It is merely an administrative convenience, which allows the removal of cases from the calendar in appropriate situations. See *Matter of Gutierrez-Lopez*, 21 I&N Dec. 479 (BIA 1996).