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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: **JUL 11 2008**  
[SRC 01 223 75447]

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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's TPS was withdrawn by the Director, Vermont Service Center. The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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 director withdrew the applicant's TPS because he found the applicant was not eligible due to two or more misdemeanor convictions in the United States.

On appeal, the applicant asserts that it has been 17 years since he has been in trouble with the law and requests that CIS approve his application.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
    - (iii) The applicant is a parolee or has a pending request for reparole; or
    - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

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:

- (1) On April 2, 1987, the applicant was arrested for resisting arrest.
- (2) On August 25, 1989, the applicant was convicted of Prowling and Loitering, Resisting and Obstructing without violence, and Disorderly Conduct by Fighting, all misdemeanors, in the Broward County Circuit Court, Florida. Arrest No. TM89000659.
- (3) On May 16, 1990, the applicant was convicted of Resisting and Obstructing Without Violence, in the Broward County Circuit Court, Florida, a misdemeanor. Arrest No. OP95001135.
- (4) On September 27, 1995, the applicant was arrested by the Oakland Police Department, Florida, for Resisting Officer Without Violence. The status of this case is unclear.

On appeal, the applicant asserts that it has been 17 years since he was in trouble with the law and request that CIS approve his application.

The applicant has been convicted of two or more misdemeanors that the AAO knows of, however, there are unresolved charges on his record for which the final disposition is not known. In addition, the applicant failed to reveal the charges on his criminal record when he applied for TPS, and signed a statement that he had not been convicted of two or more misdemeanors in response to the director’s Notice of Intent to Deny.

The applicant is ineligible for TPS due to record of at least two misdemeanor convictions detailed above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to deny the application for this reason will be affirmed.

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.