

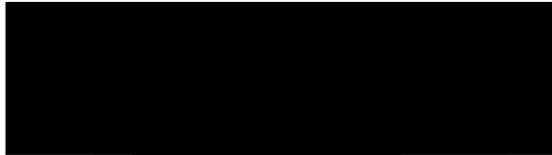
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u.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: MAR 11 2008
[WAC 01 174 50470]

INRE: 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 Vermont Service Center. Any further inquiry must be made to that office.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 director withdrew the applicant's TPS because he had been convicted of two misdemeanors in the United States.

On appeal, the applicant provides an explanation of why he pled guilty to one of his misdemeanor convictions. The applicant submits copies of the court disposition, and a declaration from his spouse detailing the facts that occurred during the incident that led to his arrest.

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)(I).

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.

In responses to a Notice of Intent to Withdraw TPS dated October 26, 2006, the applicant submitted the requested court disposition, which revealed that on March 16, 2005, the applicant was charged with inflicting corporal injury on spouse, a violation of section 273.5(a) PC, battery against former spouse, a violation of section 242-243(e)(1) PC, and willful cruelty to child, a violation of section 273ab PC, all misdemeanors. On March 16, 2005, the applicant pled nolo contendere to inflicting corporal injury upon spouse and willful cruelty to child. For violating section 273.5(a) PC, the applicant was sentenced to serve 60 days in jail, ordered to pay a fine, enroll in a counseling program, attend 52 alcoholic anonymous meetings and placed on probation for three years. For violating section 273ab PC, the applicant was ordered to enroll in a parenting counseling program and was placed on probation for four years. The remaining charge was dismissed. Case no.

On appeal, the applicant asserts that he was convicted of violating section 273ab PC because he was promised to be let out of detention if he plead guilty to the charge.

The applicant should have raised this argument in the appropriate appellate court. The AAO is not the proper forum for disputing the validity of state convictions, and does not have authority to look beyond the record of conviction when determining an applicant's eligibility for TPS.

The applicant is ineligible for TPS due to his two 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(a)(1), the director's decision to withdraw the applicant's TPS is 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.