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FILE:  Office: California Service Center Date: **FEB 14 2008**
[WAC 06 15970031]

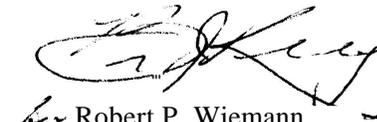
INRE: Applicant: 

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.


for Robert P. Wiemann,
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the applications will be approved.

The applicant is a 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 applicant filed an initial TPS application on March 8, 2006, under CIS receipt number WAC 06 159 70031. The director denied the application on October 9, 2006, because the applicant failed to submit sufficient evidence to establish her eligibility for TPS. The director noted, specifically, that the applicant failed to submit a final court disposition for an arrest. It is noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant was arrested December 3, 2005, and charged with:- Charge 1- 1 Count of "GRAND THEFT, SRVNT/ETC \$400+," a misdemeanor.

It is noted that at the time the applicant filed her TPS application, she had a pending asylum application. The applicant is, therefore, eligible for late initial registration.

On appeal, the applicant submits a court disposition for the December 3, 2005, arrest. The court disposition indicates that on December 9, 2005, the Superior Court of California, County of Ventura, convicted the applicant on a guilty plea, of a violation of Section 487(b)(3) PC Grand Theft, a misdemeanor; the court sentenced the applicant to 2 days jail, and 36 months probation.

The record of proceedings indicates only one misdemeanor conviction that would not bar the applicant from receiving TPS. Additionally, the record contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any grounds that would bar the applicant from receiving TPS: the record contains sufficient evidence to establish the applicant's identity and nationality, her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 1, 2001, to the date of filing her initial TPS application, March 8, 2006. The record contains documentation, including school and employment records, which cumulatively establishes the requisite continuous residence and continuous physical presence, and the biographic page of the applicant's passport. Therefore, the director's decision will be withdrawn, and the application will be approved.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has sustained that burden.

ORDER: The application is reopened and the director's denial of the application is withdrawn. The application is approved. The appeal is sustained.