



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

PUBLIC COpy

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

MI



FILE:



Office: VERMONT SERVICE CENTER

Date: MAY 01 2008

[EAC 08 041 51036, *appealj*
[WAC 02 126 53287]

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status (TPS) was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal.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

The applicant is a native and citizen of El Salvador who was **granted** TPS on February 1, 2007. The director subsequently withdrew the applicant's status on October 29, 2007, when it was determined that the applicant had been convicted of two misdemeanors in the United States.

On **appeal**, the applicant acknowledges that he has committed errors and apologizes for them. He explains that he had elderly parents that depend on him economically and asserts that there could be severe consequences for him and his family was he to be deported.

Citizenship and Immigration Services may withdraw TPS if the alien was not eligible at the time the status was **granted**, or if he or she becomes ineligible for TPS. 8 C.F.R. § 244.14(a)(I).

Section 244(c) of the Act, and the related regulations at 8 C.F.R. § 244.2, provide that an applicant 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**.
- (g) Has filed an **application** for late registration with the appropriate Service director **within** a 60-day period immediately following the **expiration** or termination of conditions described in paragraph (t)(2) of this section.

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. Section 244(c)(2)(B)(i) of the Act and **the** regulations at 8 C.F.R. § 244.4(a).

The regulations at 8 C.F.R. § 244.1 define "**felony**" and "misdemeanor" as:

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 reflects the following offenses:

- (1) On July 19, 2002, the applicant was convicted by a Judge in the Superior Court of the County of Los Angeles State of California of "TRESPASS: INJURE PROPERTY," a misdemeanor, under the **name** [REDACTED] (Case **Number**__)
- (2) On July 11, 2005, the applicant was convicted by a Judge in the Superior Court of the County of Los Angeles, State of California of "0.08% MORE WGHT ALCHL DRIVE VEH," a misdemeanor, under the **name** [REDACTED] (Case **Number**__)

On appeal, the applicant explains that he had elderly parents that depend on him economically and asserts that there could be severe consequences for him and his **family** was he to be deported. This explanation does not mitigate the above convictions.

The applicant is ineligible for TPS due to his record of 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 withdraw 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.