

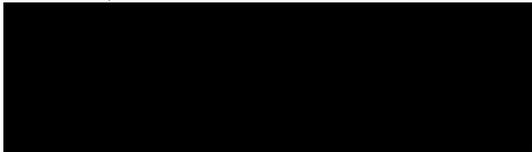
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: MAY 07 2007
[WAC 01 168 50538]
[WAC 05 215 73375]

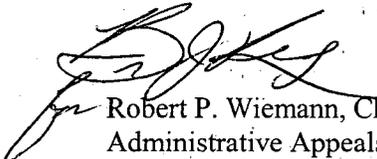
IN RE: Applicant: [REDACTED]

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and the case is now before the Administrative Appeals Office on appeal.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 Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on May 9, 2002. The director subsequently withdrew the applicant's TPS status on August 4, 2006, when it was determined that the applicant had been convicted of a felony or two or more misdemeanor offenses. Within the same decision, the director denied the applicant's re-registration application, filed on May 3, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 215 73375, also because the applicant had been convicted of a felony or two or more misdemeanor offenses.

The director may withdraw the status of an alien granted TPS at any time if it is found 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).

On appeal, the applicant submits a statement and additional court documents including documents previously furnished and contained in the record.

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 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.

Based on the Federal Bureau of Investigation (FBI) fingerprint results report, the applicant was requested, in a Notice of Intent to Withdraw dated May 5, 2006, to submit the final court dispositions of all of his arrests, including the arrests listed on the FBI report. In response, the applicant submitted the requested court documents. Because the records indicate that the applicant was convicted of two or more

misdemeanor offenses, the director withdrew the applicant's TPS and also denied the re-registration application.

On appeal, the applicant apologizes for his irresponsibility and requests that he be authorized to continue working legally in this country. He submits additional court documents.

The record reveals the following offenses:

- (1) On November 7, 2001, in the Superior Court of California, County of Los Angeles, Case No. [REDACTED] (arrest date November 5, 2001), the applicant was indicted for Count 1, vandalism, 594(a) PC, a misdemeanor; Count 2, tampering with vehicle, 10852 VC, a misdemeanor; and Count 3, unlawful deface of public property, 41.14 LAM, a misdemeanor. On November 7, 2001, the applicant was convicted of Count 1. He was placed on probation for a period of 24 months under the condition that he serve 45 days in the county jail, ordered to pay \$163 in fines and costs, and to attend 52 Alcoholic Anonymous meetings. Counts 2 and 3 were dismissed.
- (2) On June 21, 2004, in the Superior Court of California, County of Los Angeles, Case No. [REDACTED] (arrest date June 20, 2004), the applicant was indicted for Count 1, driving under the influence of alcohol/drug, 23152(a) VC, a misdemeanor; and Count 2, driving with .08 percent blood alcohol level or more, 23152(b) VC, a misdemeanor. He was placed on probation for a period of 36 months under the condition that he serve 48 hours in the county jail, ordered to pay \$1,516 in fines and costs, to enroll and successfully complete a 6-month licensed first-offender alcohol and other drug education and counseling program, and his license was suspended for 6 months. The outcome as to Count 1 is not reflected in the record.
- (3) On September 24, 2004, in the Superior Court of California, County of Los Angeles, Case No. [REDACTED] (arrest date September 19, 2004), the applicant was indicted for Count 1, driving under the influence of alcohol/drug, 23152(a) VC, a misdemeanor; Count 2, driving with .08 percent blood alcohol level or more, 23152(b) VC, a misdemeanor; Count 3, hit and run/property damage, 2002(a) VC, a misdemeanor; and Count 4, driving with suspended-revoked license, 14601.5(a) VC, a misdemeanor. On January 20, 2005, the court dismissed Counts 1, 2, 3, and 4, and the applicant was exonerated of all charges. The applicant also submitted a letter dated May 25, 2005, from the Los Angeles Police Department, verifying that that the applicant "was not driving at the time of the collision. The matter was reviewed and [REDACTED] the applicant] was judicially exonerated in Los Angeles County Superior Court (Case # [REDACTED] Please remove all entries related to the T/C and arrest on 9/19/04."
- (4) On February 3, 2006, in the Superior Court of California, County of Los Angeles, Case No. [REDACTED] (arrest date August 10, 2005), the applicant was indicted for Count 1, driving with suspended license, 14601(a) VC, a misdemeanor; and Count 2, unlicensed driver, 12500(a) VC, a misdemeanor. On May 9, 2006, the applicant was convicted of Count 2. He was placed on probation for a period of 36 months, and ordered to pay \$756 in fines and costs. Count 1 was dismissed.

The applicant is ineligible for TPS based on his three misdemeanor convictions, detailed in Nos. 1, 2, and 4 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 the applicant's TPS 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.