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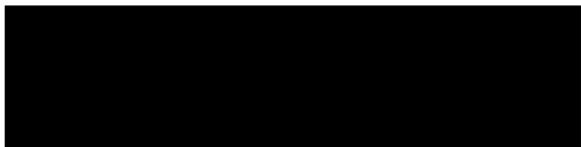
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[LIN 03 057 50416]

OFFICE: VERMONT SERVICE CENTER

DATE: FEB 01 2008

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 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DISCUSSION: The applicant's Temporary Protected Status (TPS) was withdrawn by the Director, Vermont Service Center. 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 at least two misdemeanors in the United States.

On appeal, the applicant apologized for his past mistakes and requests that his application be reconsidered as he has a family to support.

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).

"Felony" means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term actually served, if any. There is an exception 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 actually served. Under this exception, for purposes of 8 C.F.R. § 244 of the Act, the crime shall be treated as a misdemeanor. 8 C.F.R. § 244.1.

"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 response to a Notice to Withdraw TPS dated May 3, 2007, the applicant submitted the requested court dispositions, which revealed the following:

1. On March 2, 1994, the applicant was arrested by the Huntington Park Police Department in California and subsequently charged with forge of official seal, a violation of section 472 PC, a felony; driving under the influence of alcohol, a violation of section 23152(a) VC, a misdemeanor; driving with .08 percent or more alcohol in the blood, a violation of section 23152(b) VC, a misdemeanor; and possession of a fraudulently altered identification card, a violation of section 13004(a) VC, a misdemeanor. On March 3, 1994, the applicant pled *nolo contendere* to driving with .08 percent or more alcohol in the blood and to a misdemeanor charge of forge of official seal. The applicant was sentenced to serve time in jail and placed on probation for three years. The remaining charges were dismissed. Case no. [REDACTED]
2. On May 18, 2002, the applicant was arrested by the Sheriff's Office in Finney County, Kansas for transporting an open container, a violation of KSA 08-1599. On June 27, 2003, the applicant was convicted of this misdemeanor offense and sentenced to serve five days in jail and ordered to pay a fine. Case no. [REDACTED]
3. On December 29, 2002, the applicant was arrested by the Sheriff's Office in Sedgwick County, Kansas for driving under the influence of alcohol or drugs, a violation of KSA 08-

1567. On June 30, 2003, the applicant was convicted of this misdemeanor offense. The applicant was sentenced to serve six months in jail, ordered to pay a fine and placed on probation for one year. Case no. [REDACTED]

On appeal, the applicant asserts, in pertinent part:

As far as the misdemeanor revealed by police records in the state of California and Kansas these non violent incidents were previously reported by me to INS during interviews in 2001 in Wichita and Kansas City INS in 2002 and TPS status was granted to me on both occasions.

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. 8 C.F.R. § 244.14(a)(1).

The applicant is ineligible for TPS due to his four 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, 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 from the withdrawal of the TPS application is dismissed.