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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: FEB 26 2008
[WAC 01 202 56329]

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The matter 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 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 apologizes for his previous mistakes and requests that his application be reconsidered as he has a family to support.

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)(1).

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 response to a Notice of Intent to Deny TPS dated March 27, 2007, the applicant submitted the requested court dispositions, which revealed the following offenses in the state of California:

1. On May 15, 2000, the applicant was arrested by the Los Angeles Police Department for driving under the influence of alcohol. On May 16, 2000, the applicant was charged with driving under the influence of alcohol, a violation of section 23152(a) VC, driving with .08 percent or more alcohol in the blood, a violation of section 23152(b) VC, and driving without a license, a violation of section 12500(a) VC. On May 16, 2000, the applicant pled guilty to violating section 23152(b) VC, a misdemeanor. The applicant was sentenced to serve two days in jail, ordered to pay a fine and placed on probation for three years. The applicant subsequently violated the terms of his probation and on December 20, 2005, the applicant was sentenced to serve 56 days in jail. The remaining charges were dismissed. Case no. [REDACTED]
2. On November 26, 2005, the applicant was arrested by the Los Angeles, Police Department for driving without a license and inflicting corporal injury upon a spouse/cohabitant. On December 1, 2005, the applicant was charged with inflicting corporal injury upon spouse, a violation of section 273.5(a) PC, making a criminal threat, a violation of section 422 PC, and prevent/dissuade witness from attending or giving testimony, a violation of section 136.1(b)(1) PC. On January 17, 2006, the applicant pled *nolo contendere* to violating section 273.5(a) PC, a misdemeanor. The applicant was sentenced to serve 20 days in jail,

ordered to pay \$400.00 into the domestic violence fund and placed on probation for three years. The remaining charges were dismissed. Case no. [REDACTED]

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. § 244.1(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.