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u.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 01 161 55931]

Office: CALIFORNIA SERVICE CENTER

Date: MAR 11 2008

INRE: 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 California 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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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 director withdrew the applicant's TPS because he had been convicted of at least two misdemeanors in the United States.

On appeal, the applicant apologizes for his past mistakes and requests that his application be reconsidered as he has a family to support. The applicant submits documents establishing his completion of three chemical dependency treatment programs.

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 Request for Evidence dated June 29, 2005, the applicant submitted the requested court dispositions, which revealed the following offenses in the state of New York:

1. On September 9, 2002, the applicant was arrested by the Salt Point Police for driving while intoxicated with .10 percent or more alcohol in the blood, a violation of VTL 1192.2-02, and driving while intoxicated, a violation of VTL 1192.3-03. On February 3, 2003, the applicant pled guilty to driving while ability impaired a violation of VTL 1192.1-01, a misdemeanor, and was ordered to pay a fine. Case no. [REDACTED]
2. On December 17, 2002, the applicant was arrested by the Salt Point Police for driving while intoxicated, a violation of VTL 1192.3. On June 27, 2003, the applicant was convicted of this misdemeanor offense, ordered to pay a fine and placed on probation for three years. Case no. [REDACTED]
3. On August 15, 2004, the applicant was arrested by the Salt Point Police for petit larceny, a violation of VTL 155.25. On February 15, 2005, the applicant was convicted of this offense, ordered to pay a fine and placed on probation for three years. Case no. [REDACTED]

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On appeal, the applicant acknowledges his convictions and asserts that he has successfully completed all the court's requirements.

However, neither the acknowledgement of past mistakes nor the applicant's satisfactory completion of all of his court obligations eliminates his convictions.

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