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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals
Washington, DC 20529-2090

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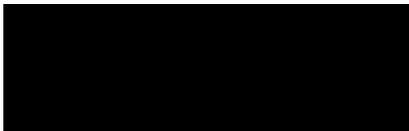
SEP 25 2009

FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date:
[SRC 01 194 51172]

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:



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.

 John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The application 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 record reveals that the applicant filed a TPS application during the initial registration period on April 23, 2001, under receipt number SRC 01 194 51172. The Director, Texas Service Center, approved that application on September 12, 2002.

The director may withdraw the status of an alien granted Temporary Protected Status 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 record reveals the following offenses:

- (1) On September 25, 2004, the applicant was arrested by the Dardanelle, Arkansas Police Department for "Driving While Intoxicated", "Refusal to Submit to Arrest", "Refusal to Submit to Breath Test", "Speeding", "Left of Center", "No Seat Belt", and "Failure to Notify Change of Address."

Pursuant to a letter dated May 5, 2008, the applicant was requested to submit the final court disposition for each of the charges detailed above. In response, the director stated that the applicant submitted the requested court disposition. This documentation indicated that the applicant pled guilty to and was convicted of all of the September 25, 2004 charges, which included at least three misdemeanors.

The director determined that the applicant is ineligible for temporary protected status because of his misdemeanor convictions. 8 C.F.R. § 244.4(a) and denied the application on July 30, 2008.

On appeal, counsel for the applicant states that the misdemeanors arose out of a single scheme of criminal misconduct and therefore should not be seen as separate misdemeanors. However, while the determination of whether the applicant's crimes arose "out of a single scheme of criminal misconduct" may be relevant to the issue of his *removability* under section 237 of the Act, this determination has no bearing on his *eligibility* for TPS or his *admissibility* under section 212(a) of the Act. *Black's Law Dictionary*, 353 (7th Ed., 1999) defines the term "count" to mean a separate and distinct claim in a complaint or similar pleading. It also indicates that the term "count" is used to signify the part of an indictment charging a distinct offense. According to the court disposition, the applicant was charged with seven separate violations to which he pled guilty to seven separate crimes and the court ordered separate punishments. Therefore, the applicant has been convicted of at least two separate and distinct misdemeanor offenses.

The applicant is ineligible for temporary protected status because of his misdemeanor convictions. 8 C.F.R. § 244.4(a).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. The applicant's statement, on appeal, does not overcome the adverse evidence in the record. Consequently, the director's decision 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.