

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

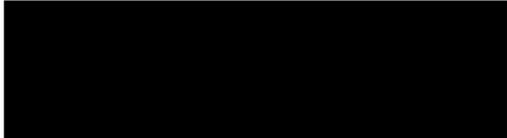
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

M<sub>1</sub>



FILE: [REDACTED]

OFFICE: VERMONT SERVICE CENTER

DATE: **MAR 29 2010**

[WAC 01 187 54057]

IN RE: Applicant:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. §103.5(a)(1)(i).

Perry Rhew  
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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 TPS because the applicant had been convicted of at least two misdemeanors in the United States.

On appeal, the applicant apologizes for his previous wrongdoings and requests that his case be reconsidered.

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).

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. See 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.

The FBI report dated February 10, 2009, reveals the following offenses in the state of California:

1. On May 3, 2007, the applicant was arrested by the Los Angeles Police Department for hit and run causing property damage.
2. On September 25, 2007, the applicant was arrested by the Los Angeles Police Department for driving under the influence of alcohol.
3. On November 26, 2007, the applicant was arrested by the Sheriff's Office in Norwalk for driving with .08 percent or more alcohol in the blood.

In response to the notice issued on March 24, 2009, the applicant submitted the following court dispositions from the Los Angeles County Superior Court of California:

- On September 6, 2006, the applicant was arrested for violating two counts of section 20002(a) VC, hit and run causing property damage. On December 4, 2006, the applicant pled *nolo contendere* to both misdemeanor offenses. The applicant was ordered to pay a fine and placed on probation for three years. On May 3, 2007, a

restitution hearing was held and the applicant was ordered to pay restitution to the victims. [REDACTED].

- On September 25, 2007, the applicant was arrested for violating section 23152(a) VC, driving under the influence, section 23152(b) VC, driving with .08 percent or more alcohol in the blood, and section 20002(a) VC, hit and run causing property damage. On November 14, 2007, the applicant pled *nolo contendere* to violating sections 23152(b) VC and 20002(a) VC, both misdemeanors. For violating section 23152(b) VC, the applicant was ordered to serve 90 days in jail, ordered to pay a fine and placed on summary probation for five years. For violating section 20002(a) VC, the applicant was ordered to serve 60 days in jail, ordered to pay a fine and placed on summary probation for three years. The remaining offense was dismissed. On November 26, 2007, the applicant surrendered to serve 150 days in the county jail. [REDACTED]

On appeal, the applicant requests a pardon. The AAO, however, does not, and cannot, grant pardons.

The applicant is ineligible for TPS due to his four misdemeanor convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The applicant's statements made on appeal have been considered. Nevertheless, there is no waiver available, even for humanitarian reasons, of the requirements stated above. Consequently, the director's decision to withdraw 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.