



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: JUN 18 2015

FILE: [REDACTED]

APPLICATION RECEIPT #: [REDACTED]

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:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

Thank you,

A handwritten signature in black ink, appearing to be "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Acting Center Director, Vermont Service Center, simultaneously withdrew the applicant's Temporary Protected Status and denied an application for re-registration. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant is a native and citizen of El Salvador who was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. The director denied the re-registration application and withdrew TPS because it was determined that the applicant had been convicted of two misdemeanors in the United States.

On appeal, counsel asserts that the director erred in determining that the applicant had been convicted of a misdemeanor offense of driving without a license. Counsel resubmits the court documentation relating to the violation which was amended to an infraction violation.

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 TPS 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. 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. 8 C.F.R. § 244.1. 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. *Id.*

The term ‘conviction’ means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, adjudication of guilt has been withheld, where - (i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and (ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed. Section 101(a)(48)(A) of the Act.

The record contains the following information relating to the applicant's criminal history:

1. An arrest on [REDACTED] 2007 for driving without a license, a misdemeanor. On [REDACTED] 2007, in Superior Court of [REDACTED] California, the court amended the misdemeanor offense to an infraction. The applicant subsequently pled guilty to and was adjudged guilty of the infraction offense. The applicant was ordered to pay a fine and court costs.



2. An arrest on [REDACTED] 2012 for theft and abandonment and neglect of children. On [REDACTED] 2013, in Superior Court of [REDACTED], California, the applicant pled guilty to and was adjudged guilty of theft, a violation of § 484(a) PC, a misdemeanor. Imposition of sentence was suspended and the applicant was placed on summary probation for 36 months, ordered to serve one day in jail and pay a fine and court costs. The remaining offense was dismissed.

The applicant has presented certified court documentation from the court establishing that misdemeanor offense of driving without a license was amended to an infraction prior to her guilty plea. Therefore, the director's finding that the applicant had been convicted of a misdemeanor offense for driving without a license will be withdrawn.

The applicant has one misdemeanor conviction, a violation of § 484(a) PC, which does not render the applicant ineligible for TPS under the provisions of section 244(c)(2)(B)(i) of the Act and the related regulation in 8 C.F.R. § 244.4(a). Accordingly, the director's decision to deny the re-registration application and to withdraw the applicant's TPS will be withdrawn and her TPS reinstated.

**ORDER:** The appeal is sustained