



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 36102127

Date: FEB. 18, 2025

Appeal of Nebraska Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant, a national of El Salvador, seeks to renew Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a.

The Director of the Nebraska Service Center withdrew the Applicant's TPS and denied his re-registration request, concluding that the Applicant was no longer eligible for such status because he was convicted of two or more misdemeanor offenses. The matter is now before us on appeal.

On appeal, the Applicant asserts that his two convictions should be counted as one because they arose from a single scheme of misconduct.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

U.S. Citizenship and Immigration Services (USCIS) may withdraw TPS at any time, in part if the recipient was not in fact eligible at the time TPS was granted or later becomes ineligible. 8 C.F.R. § 244.14(a)(1). Individuals who were convicted of two or more misdemeanors committed in the United States are ineligible for TPS. Section 244(c)(2)(B)(i) of the Act.

For TPS purposes, any crime punishable by imprisonment for a term of one year or less, regardless of the term actually served if any, is considered a misdemeanor except when the maximum possible term of imprisonment for the crime does not exceed five days. 8 C.F.R. § 244.1.

The record reflects that in 2020, the Applicant was found guilty of violating sections 23152(a) and (b) of the California Vehicle Code for driving while under the influence of any alcoholic beverage and of driving while having a .08% or higher blood alcohol. The Applicant does not dispute that he was convicted on both counts, or that these offenses are misdemeanors.

He asserts nevertheless that his two convictions should be treated as one misdemeanor conviction because they resulted from a single arrest. While the determination of whether multiple criminal

incidents arose out of a single scheme of misconduct may be relevant to a individual's removability from the United States, the Applicant has not shown that the "single scheme rule" applies to the criminal grounds of ineligibility for TPS in section 244(c)(2)(B) of the Act. Rather, as the Applicant is seeking TPS before USCIS, we must consider his eligibility under section 244 of the Act and the corresponding regulations, which clearly state that individuals convicted of two misdemeanor offenses committed in the United States do not qualify for such status.

The Applicant also explains that since these convictions he has been a law-abiding citizen and that the loss of TPS would pose an economic hardship for his family. However, there is no waiver or exception for individuals who, like the Applicant, are ineligible for TPS on criminal grounds. Consequently, his TPS remains withdrawn and his re-registration request remains denied.

ORDER: The appeal is dismissed.