



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

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

In Re: 25580407

Date: MARCH 30, 2023

Appeal of Texas Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant seeks review of a decision withdrawing his Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a.

The Director of the Texas Service Center withdrew the Applicant's TPS, concluding that he 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 submits court dispositions and 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 2022 the Applicant pled guilty and was convicted of two counts of domestic battery in violation of section 6-2-511 of the Wyoming Statutes. A Wyoming circuit court sentenced him to six months of imprisonment on each count with all but 10 days of the sentence suspended. The Applicant does not dispute that he was convicted on both counts of domestic battery, or that the offense qualifies as a misdemeanor for TPS purposes.<sup>1</sup> He asserts nevertheless that his two

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<sup>1</sup> The offense of domestic battery (first offense) under Wyoming law is punishable in part by imprisonment for not more than six months. Wyo. Stat. Ann. § 6-2-511(b)(i).

convictions should be treated as *one* misdemeanor conviction because they resulted from a single arrest. In support he references *Matter of Adetiba*, 20 I&N Dec. 506, 510-11 (BIA 1992), addressing whether an individual's convictions for crimes involving moral turpitude (CIMT) fell within "a single scheme of criminal misconduct" exception to deportability under section 241(a) of the Act, 8 U.S.C. § 1251(a).<sup>2</sup> Specifically, the Board of Immigration Appeals found in that case that a single scheme of criminal misconduct would exist where one crime constituted a lesser offense of another, or where the two crimes flow from and are the natural consequence of a single act of criminal misconduct. However, there is nothing in *Adetiba* to indicate that "a single scheme" exception applies in the context of TPS proceedings under section 244 of the Act.

Thus, while the determination of whether multiple CIMTs arose out of a single scheme of misconduct may be relevant to a noncitizen'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.<sup>3</sup> Rather, as the Applicant is seeking TPS before U.S. Citizenship and Immigration Services, 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.

Because the Applicant was charged with and convicted of two misdemeanor offenses, he is ineligible for TPS on criminal grounds. Consequently, his TPS remains withdrawn.

**ORDER:** The appeal is dismissed.

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<sup>2</sup> Those deportability grounds are currently contained in section 237(a)(2)(A) of the Act, 8 U.S.C. § 1227(a)(2)(A) (providing that a noncitizen who at any time after admission is convicted of two crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct is deportable).

<sup>3</sup> Nor is there a finding that the offenses of which the Applicant was convicted are CIMTs.