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Federal Court and BIA Update

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BOARD OF IMMIGRATION APPEALS CASES

Matter of J-G-P-, 27 I&N Dec. 642 (BIA 2019)

(1) The offense of menacing in violation of section 163.190 of the Oregon Revised Statutes is categorically a crime involving moral turpitude.

(2) The element of actual inflicted fear is not necessary to determine that a crime categorically involves moral turpitude where the State statute requires evil or malicious intent, and the level of threatened harm, or magnitude of menace implicit in the threat, is serious and immediate. *Matter of Solon*, 24 I&N Dec. 239 (BIA 2007), distinguished.

Matter of H-G-G-, 27 I&N Dec. 617 (AAO 2019)

For purposes of adjustment of status under section 245 of the Act, a recipient of Temporary Protected Status (TPS) is considered as being in and maintaining lawful status as a nonimmigrant only during the period that TPS is in effect; a grant of TPS does not constitute an admission, nor does it cure or otherwise impact any previous unlawful status.

Matter of GONZALEZ LEMUS, 27 I&N Dec. 612 (BIA 2019)

(1) Because the identity of the drug involved is an element of the crime of possession of a controlled substance under section 124.401(5) of the Iowa Code, the statute is divisible (in the case of marijuana, methamphetamine, or amphetamine) as to the specific drug involved, and the record of conviction can be examined under the modified categorical approach to determine whether that drug is a controlled substance under Federal law.

(2) The respondent's conviction for possession of methamphetamine in violation of section 124.401(5) of the Iowa Code is a violation of a law relating to a controlled substance under section 237(a)(2)(B)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(B)(i) (2012).

Matter of P. SINGH, 27 I&N Dec. 598 (BIA 2019)

(1) The standard of proof necessary to bar the approval of a visa petition based on marriage fraud under section 204(c) of the Immigration and Nationality Act, 8 U.S.C. § 1154(c) (2012), is "substantial and probative evidence."

(cont.)

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