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



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 7 2004

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 office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and 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 determined that the applicant is ineligible for TPS because she had been convicted of two or more misdemeanors committed in the United States. The director, therefore, denied the application.

On appeal, the applicant submits copies of police and court records. The applicant states that she is no longer under "prevention", and that she does not have any cases pending before the court. The applicant states that all of her records are now completely clear.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the Federal Register, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

Pursuant to section 244(c)(2)(B)(i) and the related regulations in 8 C.F.R. § 244.4(a), an alien shall not be eligible for temporary protected status if the Attorney General finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States.

8 C.F.R. § 244.1 defines "felony" and "misdemeanor:"

Felony means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except when the offense is defined by the state as a misdemeanor, and the sentence actually imposed is one year or less regardless of the term such alien actually served. Under this exception for purposes of section 244 of the Act, the crime shall be treated as a misdemeanor.

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 felony or misdemeanor.

An alien is inadmissible if he has been convicted of a crime involving moral turpitude (other than a purely political offense), or if he admits having committed such crime, or if he admits committing an act which constitutes the essential elements of such crime. Section 212(a)(2)(A)(i)(I) of the Act.

The most commonly accepted definition of a crime involving moral turpitude is an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man. *Jordan v. De George*, 341 U.S. 223, reh'g denied, 341 U.S. 956(1951).

The record reflects the following charges and convictions:

1. Case No. [REDACTED] On February 7, 1995, in Los Angeles, California, the applicant was convicted of making/passing a fictitious check, a misdemeanor. She was placed on summary probation for a period of two years and ordered to serve 18 days in the Los Angeles County Jail, less credit for 18 days served.
2. Case No. [REDACTED] On January 24, 1995, in Whittier, California, the applicant was convicted of burglary and forgery, both misdemeanors. The applicant was placed on summary probation for a period of two years and ordered to serve ten days in the Los Angeles County Jail, less credit for six days served.

The applicant is ineligible for temporary protected status due to her record of at least three misdemeanor convictions, detailed in Nos. 1. and 2. above. 8 C.F.R. § 244.4(a). In addition, the applicant is inadmissible under section 212(a)(2)(A)(i)(I) of the Act due to her convictions involving moral turpitude detailed in Nos. 1. and 2. above. *Matter of S-C-*, 3 I&N Dec. 350 (BIA) 1949). *Matter of Flores*, 17 I&N Dec. 225 (BIA 1980). *Matter of Frentescu*, 18 I&N Dec. 244 (BIA 1982). There is no waiver available for inadmissibility under section 212(a)(2)(A)(i)(I) of the Act.

The burden of proof is upon the applicant to establish that 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.