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U.S. Citizenship
and Immigration
Services

MI

FILE:

OFFICE: ATLANTA

DATE: OCT 03 2005

IN RE:

Applicant:

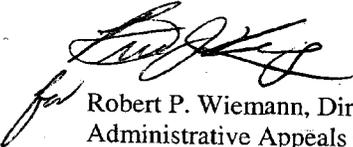
APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

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.


for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Temporary Protected Status (TPS) application was denied by the District Director, Atlanta, Georgia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed as moot, because the designated period of TPS for Liberia terminated on August 25, 2004.

The applicant claims to be a native and citizen of Liberia who is seeking TPS under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254 for the registration period ending October 1, 2004.

The director denied the application because the applicant was ineligible for TPS, pursuant to section 244(c)(2)(B)(i) of the Act, based on his conviction on January 10, 1997.

On August 25, 2004, the Department of Homeland Security announced the termination of prior designations and the re-designation of TPS for nationals of Liberia (or aliens having no nationality who last habitually resided in Liberia). As the designation period for which the applicant requests TPS has passed, approval of the application at this time would serve no practical effect since any decision rendered by the AAO would be subsequent to the date of the termination date of the authorized period.

The record shows that on January 10, 1997, in the United States District Court, District of Minnesota, Case No. [REDACTED] the applicant was convicted of Fraud in Connection with Access Devices, 18 U.S.C. § 1029(a)(5), a felony. He was placed on probation for a term of 3 years under the condition that he serve a four-month term of home detention and perform 100 hours of community service, and ordered to pay restitution in the amount of \$10,837.24.

On appeal, counsel asserts that the felony was dated back to the year 1996; therefore, his conviction should have no implications as to the applicant's immigration status. He further asserts that the applicant deserves a waiver because at the time of entering into a plea agreement, he did not receive effective counseling and was never warned of consequences of his conviction as to his immigration status.

Counsel's assertions are without merit. A time limitation is not provided for criminal activities for applicants for TPS under section 244(c)(2)(b) of the Act, and as provided in 8 C.F.R. § 244.4(a). Clearly, the applicant must meet the eligibility requirements at the time the application is filed, as well as at the time the application is adjudicated. Additionally, the Administrative Appeals Office (AAO) is not the appropriate forum to determine the consequences of the applicant's conviction. Rather, this issue is within the jurisdiction of the judicial court. Furthermore, the AAO may only look to the judicial records to determine whether the person has been convicted of the crime, and may not look behind the conviction to reach an independent determination concerning guilt or innocence. *Pablo v. INS*, 72 F.3d 110, 113 (9th Cir. 1995); *Gouveia v. INS*, 980 F.2d 814, 817 (1st Cir. 1992); and *Matter of Roberts*, 20 I&N Dec. 294 (BIA 1991).

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). Any crime involving fraud is a crime involving moral turpitude. *Burr v. INS*, 350 F.2d 87, 91 (9th Cir. 1965), *cert. denied*, 383 U.S. 915 (1966). Therefore, the applicant's felony conviction of fraud, found to involve moral turpitude, renders him inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Act.

ORDER: The application is summarily dismissed.