



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]
[WAC 05 062 74930]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: **APR 06 2006**

IN RE:

Applicant:

[REDACTED]

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.

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 Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that the applicant filed a TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 99 107 50520. The director denied that application on March 1, 2001, because the applicant had been convicted of two or more misdemeanors committed in the United States. The record does not contain evidence that the applicant filed Form I-290B, Notice of Appeal to the Administrative Appeals Office, within 30 days of the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 1, 2004, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (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.

- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The record reveals that the applicant filed the current application with CIS on December 1, 2004.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). However, the provisions of TPS do not allow approval of any application filed by an individual convicted of a felony or two or more misdemeanors, as is the case in this instance. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The record indicates the following arrests and/or convictions in California relating to the applicant:

- (1) On March 2, 1999, the applicant was arrested for Count 1, inflict corporal injury on a spouse, 273.5(a) PC, a misdemeanor; Count 2, violence used against former spouse, 242-243(e) PC, a misdemeanor; Count 3, prevent/dissuade witness from reporting, 136.1(b)(1) PC, a misdemeanor; Count 4, inflict corporal injury on spouse, 273.5(a) PC, a misdemeanor, and Count 5, violence used against former spouse, 242-243(e) PC, a misdemeanor. On September 2, 1999, in the Municipal Court of Los Angeles, Criminal Judicial District, County of Los Angeles, California, Case No. [REDACTED] the applicant was found guilty by a jury verdict of Counts 1, 2, 4, and 5. Count 3 was "acquitted by jury."
- (2) On October 14, 1993, the applicant was arrested for Count 1, burglary, 459 PC, a misdemeanor; Count 2, burglary, 459 PC, a misdemeanor; Count 3, grand theft: property, 487 Sub 1 PC, a misdemeanor; Count 4, grand theft: property, 487 Sub 1 PC, a misdemeanor; Count 5, vandalism, 594(a) PC, a misdemeanor; Count 6, tampering with vehicle, 10852 VC, a misdemeanor; Count 7 vandalism, 594(a) PC, a misdemeanor; and Count 8, tampering with vehicle, 10852 VC, a misdemeanor. On November 17, 1993, in the Municipal Court of Los Angeles, Hollywood Judicial District, County of Los Angeles, California, Case No. [REDACTED] the applicant was convicted of Counts 1 and 2. The court dismissed Counts 3, 4, 5, 6, 7, and 8.

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.

Inflicting corporal injury upon a spouse, cohabitant, or parent of the perpetrator's child is a base and depraved act and is classified as a crime involving moral turpitude. *Grageda v. INS*, 12 F.3d 919 (9th Cir. 1993). See also *Matter of Phong Nguyen Tran*, 21 I&N Dec. 291 (BIA 1996). The infliction of bodily

harm upon a person with whom one has such a familial relationship is an act of depravity that is contrary to accepted moral standards. Likewise, burglary (with intent to commit theft) is a crime involving moral turpitude. See *Matter of R-*, 1 I&N Dec. 540 (BIA 1943); *Matter of M-*, 2 I&N Dec. 721 (BIA 1982); *Matter of Leyva*, 16 I&N Dec. 118 (BIA 1977); *Matter of Frentescu*, 18 I&N Dec. 244, 245 (BIA 1982).

The applicant was convicted of six misdemeanors, detailed in Nos. 1 and 2 above, and his convictions continue to preclude a favorable finding of eligibility for TPS. Also, the reasons for the initial denial have not been overcome. Additionally, the applicant is inadmissible to the United States, pursuant to section 212(a)(2)(A)(i)(I) of the Act, due on his misdemeanor convictions found to be crimes involving moral turpitude. Therefore, the application also must be denied for this reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for temporary protected status has the burden of proving that he or 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.