



U.S. Citizenship
and Immigration
Services

M1

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



FILE: [REDACTED] OFFICE: BALTIMORE DATE: FEB 27 2006
[BAL 03 043 50032]

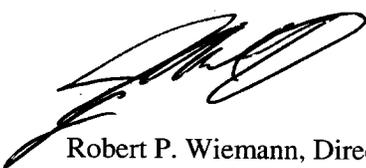
IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:
[REDACTED]

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 District Director, Baltimore, Maryland. The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a native and citizen of Liberia who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The district director denied the application because he found the applicant had been convicted of a felony. The district director also denied the application because he found that the applicant was inadmissible under section 212(a)(2)(A)(i)(I) of the Act as an alien who has been convicted of a crime involving moral turpitude.

On appeal, counsel for the applicant submits a statement.

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

- (a) Is a national of a 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 Temporary Protected Status 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.

An alien shall not be eligible for temporary protected status under this section if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

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 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 record reveals that the applicant pled guilty in the United States District Court for the District of Columbia to knowingly possessing an identification document that is or appears to be an identification document of the United States which is stolen or produced without lawful authority knowing that such document was stolen or produced without such authority in violation of 18 U.S.C. § 1028(a)(6) on October 26, 1998. (Date of Offense: September 17, 1998; Case [REDACTED])

On July 22, 2003, the director denied the application after determining that the applicant was ineligible for TPS due to a felony conviction. The director also determined that the applicant was inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Act as an alien who has been convicted of a crime involving moral turpitude.

On appeal, counsel for the applicant asserts that section 244A of the Act was repealed by section 308(a)(7) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA).

Section 244A of the Act was repealed, but was re-designated as section 244 of the Act by section 308(a)(7) of IIRAIRA. The provisions of section 244A of the Act remain in effect under the new designation as section 244 of the Act. Therefore, counsel's assertion cannot be accepted.

Counsel contends that the applicant has not been convicted of a felony for immigration purposes.

Counsel does not submit any evidence, or cite any relevant authority, to corroborate his assertion. Pursuant to 18 U.S.C. § 1028(b)(2), the punishment for an offense under section 1028(a) is a fine or imprisonment for not more than three years, or both, if the offense is production, transfer, or use of a means of identification, an identification document, or a false identification document. As stated above, "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. *See* 8 C.F.R. § 244.1.

In this case, the charge to which the applicant pled guilty is punishable by a fine or imprisonment for up to three years, or both. Therefore, for immigration purposes, the applicant's conviction constitutes a "felony" for immigration purposes.

The applicant is ineligible for TPS due to her record of at least one felony conviction, detailed above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to deny the application for this reason will be affirmed.

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 crime of possession of a false identification document of the United States involves moral turpitude. Forgery of public documents is a crime involving moral turpitude. *Matter of M*, 9 I&N Dec. 132 (BIA 1960). Therefore, the applicant is inadmissible under section 212(a)(2)(A)(i)(I) of the Act due to her conviction of a crime involving moral turpitude. Consequently, the director's decision to deny the application for this reason will also be affirmed.

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.