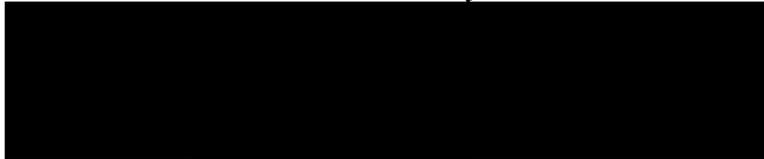




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy**



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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **APR 23 2007**
[WAC 05 148 81576]

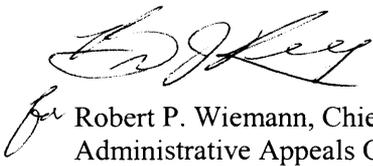
IN RE: Applicant: [REDACTED]

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.


for Robert P. Wiemann, Chief
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 on June 3, 1999, under receipt number WAC 99 179 51275. The director denied that application based on abandonment on June 22, 2000, because the applicant had failed to respond to a request dated March 2, 2000, to submit police clearances from every city where she had resided in the last five years and a copy of the certified court dispositions of each arrest and charges. On July 5, 2000, the applicant filed an appeal from the denial decision. She submitted court documents relating to an arrest, indicating that on December 10, 1998, in the Superior Court of California, County of Los Angeles, Case No. [REDACTED] (arrest date September 8, 1998), the applicant was convicted of "perjury," PC 118, a felony. Execution of sentence (4 years in a state prison) was suspended, and the applicant was placed on probation for a period of 5 years. On March 19, 2003, the director treated the appeal as a Motion to Reopen/Reconsider, the case was reopened or reconsidered for review, and the applicant was advised that a new decision was being rendered based on the merits of the case. Also on March 19, 2003, the director denied the initial application after determining that the applicant was ineligible for TPS, pursuant to section 244(c)(2)(B)(i) of the Act, because she had been convicted of a felony offense.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 5, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application on October 8, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts that she did not receive any denial notice or notification that she should prove her eligibility for TPS. She states that she submitted proof when she initially filed her application. She submits additional evidence in an attempt to establish residence and physical presence in the United States. A review of the record indicates that the director's motion to reopen and notice of decision, both dated March 19, 2003, were mailed to the address the applicant supplied at that time [REDACTED]. There is no evidence in the record that the notices were returned to CIS as undeliverable.

An alien shall not be eligible for temporary protected status 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. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

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

The applicant was convicted of a felony offense and her conviction continues to preclude a favorable finding of eligibility for TPS. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Additionally, the applicant is inadmissible to the United States, pursuant to section 212(a)(2)(A)(i)(I) of the Act, based on her felony conviction of perjury, a crime found to involve moral turpitude. *Matter of H-*, 1 I&N Dec. 669 (BIA

1943); *U.S. ex rel. Flores v. Savoretti*, 205 F.2d 544 (5th Cir. 1953). There is no waiver available to an alien found inadmissible under this section. 8 C.F.R. § 244.3(c)(1). Nor is there a waiver available for convictions of a felony or two or more misdemeanors committed in the United States.

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, she is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

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.