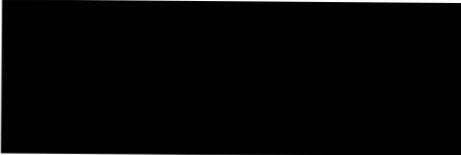




U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**



M1

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

JUL 30 2008

[SRC 01 183 56938]

[WAC 05 222 83930-Re-Registration]

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 California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's temporary protected status was withdrawn by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a 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 record reveals that the applicant filed an initial TPS application on May 29, 2001, under CIS receipt number SRC 01 183 56938. The director approved that application on September 3, 2002.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 10, 2005, under CIS receipt number WAC 05 222 83929, and indicated that he was re-registering for TPS. The director, California Service Center, withdrew the applicant's TPS and denied the re-registration application on August 16, 2006, because the applicant had been convicted of a felony.

The applicant now files this appeal. On the Form I- 290B, filed on September 19, 2006, the applicant indicated that he needed 30 days to submit a brief an/or evidence to the AAO. To date, the record does not reflect that the applicant submitted any evidence with his appeal.

As noted by the director in his withdrawal notice, the record reveals the following:

- (1) On January 11, 2004, the applicant was arrested on one count of child molestation by the Sherriff's office, Lawrenceville, Georgia. On April 16, 2004, the applicant was convicted by Superior Court, Lawrenceville, Georgia, of Statutory Rape, a felony, for which he received 6 months in Boot Camp and 10 years probation.

On September 6, 2005, the director, California Service Center, issued the applicant a Notice of Intent to Deny (NOID) his TPS re-registration application based on the January 11, 2004, arrest. The applicant was further notified that if convicted of a felony or two or more misdemeanor, his TPS will be withdrawn. The director notified the applicant to submit evidence of final court disposition(s) of this and all other arrests. The applicant failed to respond to the director's NOID and on August 16, 2006, the director denied the applicant's re registration application and withdrew his TPS.

The director may withdraw the status of an alien granted temporary protected status under section 244 of the Act at any time if it is determined that "the alien was not in fact eligible for such status" or if "the alien fails, without good cause, to re-register ... in a form and manner specified by" the Secretary. The Regulations under 8 C.F.R. § 244.14(a)(1) and (3) further state that the director may withdraw the status of an alien granted TPS if, "the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status," or if, "the alien fails without good cause to re-register".

On appeal, the applicant did not submit any additional evidence to establish his claim of eligibility.

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.

As noted above, the record reflects that the applicant was convicted of a felony. The applicant did not submit any evidence with his appeal to overcome the grounds for the withdrawal of his TPS.

The applicant is ineligible for TPS due to his record of a 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 withdraw TPS must be affirmed for this reason.

While this issue was not raised by the director, 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 crime of Statutory Rape involves moral turpitude. *Matter of P-*, 5 I&N Dec., 392 (BIA1953). Therefore, the applicant is inadmissible under section 212(a)(2)(A)(i)(I) of the Act due to his felony conviction detailed above.

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.