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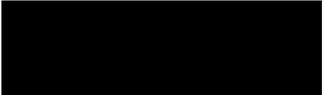


U.S. Citizenship  
and Immigration  
Services

MI



FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: APR 07 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:

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 director denied the application because the applicant had failed to establish that she was eligible for late registration.

On appeal, the applicant submits a statement and additional evidence.

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

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 § 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS 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.
- (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 condition described in paragraph (f)(2) of this section.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted with the latest extension valid until July 5, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The director noted that the applicant filed her TPS application on May 30, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

On October 25, 2002, the applicant was requested to submit: (1) police clearances from every city where she had lived since arriving in the United States, and a copy of the certified court disposition of all arrests; and (2) a photo identification. The applicant, in response, provided copies of her Honduran identification card and Honduran passport, and court documents for convictions of offenses committed on June 3, 1996 and July 1, 1998.

The director, however, denied the application on December 10, 2002, after determining that the applicant failed to timely register for TPS during the initial registration period.

On appeal, the applicant claims that she did send her application on August 19, 1999, and that Citizenship and Immigration Services (CIS) received her application on August 20, 1999. In support of this claim, the applicant submits copies of the first page of a Form I-821, Application for Temporary Protected Status, and of a Form I-765, Application for Employment Authorization. Both documents contain CIS date stamps, indicating that they were received at the Los Angeles district office on August 20, 1999. There is nothing in the record to indicate the outcome of these applications, or how the applicant obtained the stamped copies. It does at least raise the possibility that the applicant did file a TPS application in a timely fashion.

Regardless, the court documents furnished by the applicant indicate that she had been convicted of two misdemeanors committed in the United States.

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 the following offenses:

- (1) On June 17, 1996, in the Municipal Court of Whittier Judicial District, County of Los Angeles, California, Case No. [REDACTED] (arrest date June 3, 1996), the applicant was convicted, under the name of [REDACTED] of inflicting corporal injury on a spouse, 273.5(a) PC, a misdemeanor. She was placed on probation for a period of 3 years, and ordered to pay \$335 in fines and restitution fee.
- (2) On September 9, 1998, in the Municipal Court of East Los Angeles Judicial District, County of Los Angeles, California, Case No. [REDACTED] (arrest date July 1, 1998), the applicant was convicted of forging official seal, 472 PC, a misdemeanor. She was placed on probation for a period of 36 months with condition that she perform 15 days of "Cal Trans," and ordered to pay restitution in the amount of \$100.

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 inflicting corporal injury on a spouse (No. 1 above) involves moral turpitude. *Grageda v. INS*, 12 F.3d 919 (9th Cir. 1993); *Matter of Phong Nguyen Tran*, 21 I&N Dec. 291 (BIA 1996). Likewise, forgery (No. 2 above) involves moral turpitude. Therefore, the applicant is inadmissible under section 212(a)(2)(A)(i)(I) of the Act due to his misdemeanor convictions of crimes involving moral turpitude.

The applicant is ineligible for TPS due to her two misdemeanor convictions, and because she is inadmissible to the United States pursuant to under section 212(a)(2)(A)(i)(I) of the Act. Sections 244(c)(2)(B)(i) and 244(c)(1)(A)(iii) of the Act. 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.