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U.S. Citizenship
and Immigration
Services

[Redacted]

FILE: [Redacted]

Office: VERMONT SERVICE CENTER

Date: AUG 25 2008

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

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who is applying for 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 failed to establish she was eligible for late registration.

On appeal, the applicant submits a brief statement and additional documentation. The applicant asserts that she filed a TPS application during the initial registration period, but that it was rejected because she hadn't signed the application.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for [TPS] during the registration period designated under section 244(b) of the Act."

The record reveals that the applicant submitted an unsigned Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), on August 16, 1999. That application was rejected as improperly filed on August 20, 1999.¹

On October 10, 2000, the applicant submitted a properly completed Form I-821. The director denied the application, in a decision dated September 7, 2001, after determining that the applicant had failed to establish that she was eligible for late registration. The director further determined that the applicant had failed to submit evidence to establish her nationality, and her continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant did not file an appeal of the director's decision.

The applicant filed the instant Form I-821 on February 27, 2002. The director denied this application because it was filed outside of the initial registration period. While the director found the applicant ineligible for TPS because she had failed to establish eligibility for late registration, the director's decision did not fully explain the entire basis for denial.

Any Form I-821 application subsequently submitted by the same applicant after an initial application is filed and a decision on that application is rendered, must be considered as either a request for annual re-registration or as a new filing for TPS benefits. If an applicant is filing an application for annual re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must re-register annually. In addition, the applicant must continue to maintain the conditions of TPS eligibility. 8 C.F.R. § 244.17.

¹ The applicant resubmitted the application, with the required signature, on August 31, 1999, at which time it was rejected as having been filed outside of the initial registration period. The applicant then resubmitted the application on September 9, 1999. Again, it was rejected as having been filed outside of the initial registration period.

Since the applicant's initial Form I-821 was rejected as improperly filed, and her first properly completed application was denied on September 7, 2001, the instant application cannot be considered as an application for annual re-registration. The instant Form I-821 application can only be considered as a new filing for TPS benefits under the provisions of late registration, since the application was filed outside of the initial registration period.

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 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 section 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 conditions described in paragraph (f)(2) of 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. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. As previously indicated, the instant application was filed on February 27, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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).

On December 9, 2002, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2).² The applicant was also requested to submit evidence of her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant, in response, provided documentation relating to her residence and physical presence, and documentation establishing that the Form I-821 she had submitted on August 16, 1999 had been rejected as having been improperly filed.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on July 18, 2003.

The applicant has submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. She has also submitted evidence in an attempt to establish that she had submitted a TPS application during the initial registration period. However, as previously discussed, the Form I-821 submitted by the applicant on August 16, 1999 was rejected as improperly filed, and the Form I-821 submitted by the applicant on October 10, 2000, was denied on September 7, 2001.

The applicant has not established that she filed a Form I-821 within the initial registration period under the provisions of 8 C.F.R. § 244.2(f)(1), or that she qualifies for late registration under the provisions of 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

² The director's denial decision incorrectly states that the applicant was requested to submit the requested evidence on February 9, 2002, not December 9, 2002, as indicated in the record of proceeding.

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.