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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

[WAC 03 214 53630]

Office: CALIFORNIA SERVICE CENTER

Date:

MAR 28 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.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".

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 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 submit evidence to establish that she was eligible for late initial registration.

On appeal, 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 is eligible for TPS 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. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS) on June 27, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, 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 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 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 her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

On December 17, 2003, the applicant was requested to submit evidence establishing her eligibility for late initial registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite time frames. The applicant, in response, provided documentation relating to her residence and physical presence in the United States; however, she did not provide any evidence to establish her eligibility for late initial registration.

The director determined that the applicant had failed to submit sufficient evidence to establish she was eligible for late initial registration and denied the application on April 15, 2004.

On appeal, the applicant states that she has sent evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time frames. She indicates that additional evidence would be submitted within 30 days. To date, no such evidence has been received. Therefore, the record will be considered complete.

The record contains the following: a letter from the applicant dated September 15, 1999, stating that she mailed her Form I-821, Application for Temporary Protected Status, to the California Service Center on August 17, 1999; a photocopy of a Form I-821 purportedly signed by the applicant on August 14, 1999; a Form I-765, Application for Employment Authorization, purportedly signed by the applicant on August 14, 1999; a photocopy

of a United States Postal Service (USPS) Form PS 3811, Domestic Return Receipt, indicating that mail was received by the Immigration and Naturalization Service (now CIS) at an unspecified location on August 19, 1999; a notice dated August 20, 1999, from the California Service Center returning a Form I-821 and Form I-765 for signature in the proper location on the I-765 signature card; and, a notice from the California Service Center dated June 18, 2003, returning her TPS application package for inclusion of two ADIT style photographs, the application fee of \$120 for the Form I-765, and a \$50.00 fee for a late initial filing of the Form I-821.

The applicant has not submitted sufficient evidence to establish that the Form I-821 and Form I-765 she purportedly signed on August 14, 1999, were properly filed with the Immigration and Naturalization Service (now CIS) with correct fee on or before August 20, 1999. The form letter from the California Service Center dated August 20, 1999, does not reflect the applicant's name, CIS record number, or her California Service Center receipt number. There is nothing in this form letter to establish that it was actually mailed to the applicant or that it relates to a TPS application package she purportedly attempted to file with the California Service Center in August 1999. The USPS Form PS 3811, alone, is not sufficient to establish that the applicant properly filed an application for TPS with correct fee on or before August 20, 1999. Further, there is no indication in CIS computer records that the applicant properly filed a Form I-821 with correct fee on or before August 20, 1999. Therefore, it is concluded that the applicant has not submitted sufficient evidence to establish that she filed a timely application for TPS with the California Service Center in 1999.

The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it is noted that the applicant was apprehended by the United States Border Patrol near Brownsville, Texas, on January 12, 1990. She was placed in deportation proceedings and released on her own recognizance. On September 5, 1990, the applicant was ordered deported in absentia by an Immigration Judge in Los Angeles, California. On July 6, 1995, the District Director, Los Angeles, issued a Form I-166 notice ordering the applicant to appear at the Los Angeles District Office for removal to Honduras on August 4, 1995, along with a Form I-205, Warrant of Deportation. The applicant failed to appear at the Los Angeles District Office to be deported as ordered. To date, the warrant of deportation is still outstanding.

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.