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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: AUG 21 2006
[WAC 05 104 82509]

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 claims to be 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 July 6, 1999, under Citizenship and Immigration Services (CIS) receipt number WAC 99 201 53942. The director denied that application based on abandonment on April 2, 2001, because the applicant had failed to respond to a request to submit additional evidence to establish her nationality. The applicant did not file a motion to reopen within 30 days from the date of the denial. On September 30, 2003, the director denied the TPS re-registration application filed on June 5, 2003, because the initial application was denied on April 2, 2001; therefore, the applicant was not eligible for re-registration. The applicant did not file Form I-290B, Notice of Appeal to the Administrative Appeals Office, within 30 days of the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 12, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application on July 23, 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 never received the request for additional evidence and the director's denial decision of the initial application. The record shows that the director noted that the Honduran birth certificate furnished by the applicant was a "delayed registration."¹ Therefore, the applicant was requested on October 28, 2000, to submit additional evidence to establish her nationality. The director listed examples of evidence the applicant could submit, to include, but not limited to: a copy of a baptismal certificate or other supporting documents such as the medical and/or school records that show the parents' names and the child's date of birth, and affidavits (if primary and secondary evidence are unavailable) from the appropriate civil authorities or government, on their official letterhead, which states that the record does not exist and indicates that similar records for that time and place are not available, or evidence that repeated good faith attempts were made to obtain the required documents or statement. The request for additional evidence and the director's notice of decision to deny the application dated April 2, 2001, were both mailed to the applicant's most recent address at that time (3149 Harrison St., San Francisco, CA 94110). There is no evidence in the record that the applicant had advised CIS of a change of her address, nor is there evidence that the notices were returned to CIS as undeliverable.

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.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

¹ The Honduran birth certificate indicates [REDACTED] was born on February 14, 1967; however, the birth was not registered until October 27, 1984.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (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.

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The record reveals that the applicant filed the current application with CIS on January 12, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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).

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.