



U.S. Citizenship  
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FILE:



[WAC 05 102 70205]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: AUG 21 2006

IN RE:

Applicant:



APPLICATION:

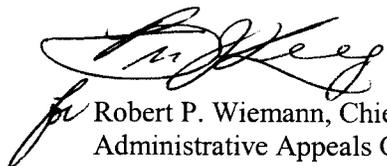
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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, 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 16, 1999, under Citizenship and Immigration Services (CIS) receipt number WAC 99 204 51696. The District Director, Phoenix, Arizona, denied that application based on abandonment on March 13, 2003, because the applicant had failed to appear for a scheduled interview on February 11, 2003. The applicant did not file a motion to reopen within 30 days from the date of the denial. On December 11, 2003, the Phoenix district director denied the TPS re-registration application filed on May 13, 2003, because the initial application was denied on March 13, 2003; therefore, the applicant was not eligible for re-registration. Although the applicant was advised that she could appeal the director's decision by filing a completed Form I-290B, Notice of Appeal to the Administrative Appeals Office, within 30 days of the director's decision, the record does not contain evidence that the applicant filed a Form I-290B.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 10, 2005, and indicated that she was re-registering for TPS.

The Director, California Service Center, denied the re-registration application 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 qualifies for TPS because she has been living in the United States since December 12, 1997, she has sent all the required information, and that she has been following all the rules for re-registration.

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.

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 10, 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.

A review of the record of proceeding indicates that on February 13, 2001, [REDACTED] a 16-year-old El Salvadoran (file number [REDACTED]) was apprehended near Houston, Texas, and was placed in juvenile custody. The applicant contacted CIS and requested that her son, [REDACTED] be released to her custody. She presented Neri's El Salvadoran birth certificate revealing that her name [REDACTED] (illegible) [REDACTED] a national of El Salvador. As proof of her status in the United States, the applicant presented an Employment Authorization Card under the name [REDACTED] file number [REDACTED].

The applicant claimed on her TPS applications that she is a native and citizen of Honduras and submitted a copy of a Honduran birth certificate indicating that [REDACTED] was born on October 5, 1965, to [REDACTED] (name of father not listed). The birth certificate, however, was not accompanied by photo identification and/or a national identity document from the alien's country of origin bearing photo and/or fingerprint, or a copy of a passport. The applicant, in this case, has not established that she is, in fact, a native or citizen of Honduras, or that [REDACTED] and [REDACTED] are one and the same person. Therefore, the application will also 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.