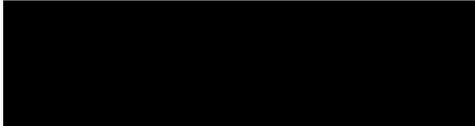


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FILE: [REDACTED]  
[WAC 05 055 76237]

Office: CALIFORNIA SERVICE CENTER

Date: **AUG 28 2006**

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 California Service Center. Any further inquiry must be made to that office.

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

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 (AAO) 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 record reveals that the applicant filed an initial TPS application on June 10, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC 02 196 56049. The Texas Service Center (TSC) Director denied that application on July 15, 2002, because the applicant failed to establish her eligibility for late initial registration. On September 5, 2002, the applicant filed an appeal from the denial decision. The Director (now Chief), AAO, dismissed that appeal on January 14, 2003, after determining that the applicant had failed to establish her eligibility for TPS.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 24, 2004, and indicated that she was re-registering for TPS.

The director 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 states that she filed her initial TPS application on June 10, 2002, and that she did not apply during the initial registration period because she was not aware that the registration was on an individual basis, and she believed that she would be covered under her husband's registration. She states that she is eligible for late initial registration as the spouse of an alien currently eligible to be a TPS registrant. She states that she and her husband have been married since June 5, 1987, and have a child together who was born in 1988. In support of the appeal, the applicant submits additional documentation consisting of: a Honduran marriage certificate issued on July 13, 2005, with English translation, indicating her marriage [REDACTED] Bonilla in Honduras on June 5, 1987; the Employment Authorization documents (EAD) for [REDACTED] indicating his authorization under Category A12; CIS receipt notices reflecting approval [REDACTED] initial TPS status in 1999; CIS receipt notices dated between 1999 and 2005, [REDACTED] applications; Internal Revenue Service (IRS) tax forms for the years 1999 through 2004, [REDACTED] an earnings statement dated in December 1998; CIS receipt notices for the applicant dated between 2002 and 2005; her Florida Identification Cards issued on December 1, 1993, and May 11, 2000; certificates in her name dated in 1996 and 1997; and, money transfer receipts dated in 2001.

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 to August 20, 1999. The record reveals that the applicant filed the current application with CIS on November 24, 2004.

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 record reveals inconsistencies in the applicant's claim of marriage to [REDACTED] an approved TPS registrant. On her initial 2002 Form I-821, Application for Temporary Protected Status, the applicant stated, under penalty of perjury, that she was married to [REDACTED] and indicated his date of birth as October 24, 1968, and their marriage as occurring in Honduras in "1986." On her 2003 Form I-821, she indicated that she was married to [REDACTED] date of birth October 24, 1962, and marriage on June 5, 1987, in Honduras. On the current Form I-821, the applicant indicated she was married to [REDACTED] and did not provide his date of birth or their date of marriage. Review of the record of proceedings for [REDACTED] reflects that on each successive TPS and employment authorization application beginning with those filed on February 10, 1999, he has indicated his marital status as "single" and has indicated his date of birth as January 3, 1960. He has also indicated on these forms that he has not used any other names. It is also noted that, until the current application, the applicant and [REDACTED] have indicated different addresses on their previous Forms I-821 that were filed at approximately the same times. The IRS tax forms for the years

1999 through 2004, that bear no evidence of having been filed, include the applicant's name only on the forms for 2003 and 2004, although she claims to have been married to him since 1987 and to have come to join him in the United States in 1993. In addition, the record does not contain the child's birth certificate, indicating parentage of the child born in 1988.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Therefore, the applicant has not established that she is eligible for late initial registration under 8 C.F.R. § 244.2(f)(2)(iv). The application must also be denied for this reason.

The applicant also has failed to establish her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. The record includes copies of the applicant's Florida Driver License issued on November 2, 1999, and two Florida Identification Cards issued on December 1, 1993, and on May 11, 2000. The applicant submitted certificates dated in 1996 and 1997, prior to the designation of Honduran nationals for TPS. The applicant also submitted letters from acquaintances asserting her residence in the United States during the requisite periods. Other than the money transfer receipts dated in 2001, these letters, however, are not supported by any corroborative evidence prior to the Florida Driver License issued in November of 1999. Therefore, the applicant has not established that she has met the requirements as described in 8 C.F.R. § 244.2(b) and (c), and the application must also be denied for these reasons.

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.