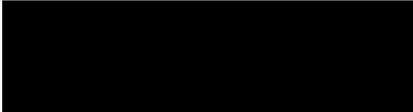




U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[SRC 00 094 50900]

Office: TEXAS 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:



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, Texas Service Center (TCS), 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 seeking 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 he was eligible for late registration.

On appeal, the applicant states:

I am appealing your decision to deny my application for TPS. I applied in 1999 during the initial registration period, which took place from January 5, 1999 - Aug 20, 1999. I sent in both forms, both the I-821 and the I-765. For some reason, your office has been unable to locate the original I-821 that I filed. I provided proof of being in the US and residing here in the US when and since the initial TPS Benefit was issued to Honduras. I have copies of the money order that I submitted for this case and the certified return receipt for 1999, which show that your office did receive my application.

I have no way of getting a copy of the cashed money order, because the money order company does not issue copies of money orders that were cashed after two years of being cashed. In this case, it has been more than 5 years since the Service has cashed this money order. The money order shows that I filed both the I-821 and the I-765 because it is in the amount of \$175 which represents the fee that existed at that time. Please reconsider your decision to deny my case, as the failure to file an I-821 is not my fault. I have enclosed proof that your office did receive it. I should not be penalized for a mailroom mistake. Please reconsider your decision to deny my case

The applicant submits a copy of a Global Express money order purchaser's claim receipt for a money order for \$175 which was issued on February 1, 1999 and a copy of an unsigned United States Postal Service PS Form 3811, Domestic Return Receipt, showing that article number Z456587341 was purportedly sent to the TCS on May 7, 1999.

Section 244(c) of the Act, and the related regulations at 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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 Temporary Protected Status 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 shows that the applicant filed his application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on February 2, 2000.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or 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).

On April 8, 2004, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in this country along with correspondence and receipt forms relating to applications that he had filed with the TSC.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on May 11, 2004. On appeal, the applicant submits a copy of a Global Express money order purchaser's claim receipt for a money order for \$175 which was issued on February 1, 1999 and a copy of an unsigned United States Postal Service PS Form 3811, Domestic Return Receipt, showing that article number Z456587341 was purportedly sent to the TSC on May 7, 1999. The applicant indicates that he cannot prove that the money order was cashed by TSC because the money order company does not issue copies of money orders that were cashed after two years of being issued. However, he provides no documentation to support that assertion. Also his argument that the money order shows that he filed both the I-821 and the I-765 because it is in the amount of \$175 which represents the fee that existed at that time is without merit because the record does not reflect that he actually filed his I-821 in 1999 or that the money order was used for that purpose. Additionally, the domestic return receipt dated May 7, 1999 that he submits does not prove that he filed his application within the initial eligibility period as it is not signed by a receiving addressee or agent. The first convincing evidence that he submitted an I-821 provided for the record by the applicant is a Form I-797C, Notice of Action, dated February 11, 2000 that clearly shows that his application for temporary protected status was received by TSC on February 2, 2000.

The applicant has submitted evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. The applicant has not submitted any evidence to establish that he has met the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

An alien applying for TPS 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.