



U.S. Citizenship
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Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date **APR 10 2006**

[WAC 05 098 81345]

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, Director
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 on July 5, 2002, the applicant filed an earlier TPS application under Citizenship and Immigration (CIS) receipt number SRC 02 231 54503. The Texas Service Center Director denied that application on April 17, 2003, because the applicant failed to establish his eligibility for late initial registration. The applicant did not file an appeal from the denial decision.

On August 6, 2003, the applicant filed a subsequent TPS application under CIS receipt number SRC 03 220 53836. The Texas Service Center Director denied that application on April 15, 2004, because the applicant failed to establish his eligibility for late initial registration. Again, the applicant did not file an appeal from the denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 6, 2005, and indicated this was an application for re-registration or extension of TPS benefits.

The director denied this 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 he cannot accept the denial of his TPS application because he received no request for additional evidence within the last twelve months. In support of the appeal, the applicant submits additional evidence consisting of: a copy of his employment authorization document (EAD) under Category C19, with validity from November 1, 2003 through January 5, 2005; additional copies of his Kansas Driver License issued on September 2, 1999, his Honduran national identity document issued on April 30, 1997, and his Honduran License issued on January 22, 1996; an online inquiry regarding his most current employment authorization application; an online inquiry regarding his previous TPS application, SRC 03 220 53836, reflecting that his response to the request for evidence was received and that the case remained pending; CIS receipt notices for his January 2005 applications; and, a denial notice for his January 10, 2005, employment authorization application.

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, he 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 January 6, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. 8 C.F.R. § 244.2(g).

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). The record includes a Form I-821, Application for Temporary Protected Status, signed by the applicant on June 21, 2000, and date-stamped by the Texas Service Center on July 3, 2000. The record also includes the corresponding Form I-765, Application for Employment

Authorization, and a mailing envelope from the applicant addressed to the Texas Service Center, bearing the United States Postal Service (USPS) postmark of August 25, 2000. The record includes a form dated September 18, 2000, indicating that the application does not meet the criteria for late initial registration and should be rejected. It does not appear that the 2000 TPS application was ever accepted as a properly filed TPS application. Further, it is noted that the application dated in the year 2000, also falls outside of the initial registration period that for Hondurans ended on August 20, 1999. The record also contains no application dated in the year 2001. As noted above, the applicant's previous TPS applications also were filed outside of the initial registration period and were denied for that reason. Because the applicant has not established his eligibility for late initial registration, this 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.