



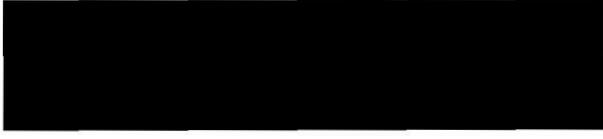
U.S. Citizenship
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Services

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APR 17 2006



FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

[WAC 05 083 75827]

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 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 July 5, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC 02 233 50415. The director denied that application based on abandonment on March 26, 2003, because the applicant had failed to respond to a request to submit evidence to establish that she: (1) had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999; and (2) was eligible for late initial registration. The director also denied the applicant's motion to reopen on September 26, 2003,

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 22, 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.

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.

The applicant indicated on her TPS application that her date of entry into the United States was September 25, 1998. The record of proceeding, however, contains Form I-213, Record of Deportable/Inadmissible Alien, and Form I-862, Notice to Appear, both dated November 1, 2001 (file number A78 971 275), indicating that on November 1, 2001, the applicant was apprehended near Roma, Texas, while attempting to enter the United States without inspection. She stated, at that time, that she left her home in Honduras on October 1, 2001, and traveled through Belize, Guatemala, and Mexico until she arrived at the border town of Miguel Aleman, Tamaulipas, before wading the Rio Grande River into the United States without inspection. In removal proceedings held on July 25, 2002, at Miami, Florida, the applicant failed to appear at the hearing; therefore, the Immigration Judge determined that the applicant had abandoned any and all claims for relief from removal and ordered the applicant removed to Honduras *in absentia*. A Form I-205, Warrant of Removal/Deportation, was issued on July 25, 2002.

Based on the applicant's entry into the United States in November 2001, the applicant, therefore, could not have met the criteria required to establish continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999, because the applicant was not present in the United States during the requisite period described in 8 C.F.R. § 244.2(b) and (c). 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.