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**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 113 73673]

DEC 06 2006
Date:

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 office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. 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 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 applicant filed her initial TPS application with Citizenship and Immigration Services (CIS) on August 28, 2001, under receipt number SRC 01 255 55176. The Director of the Texas Service Center denied the application due to abandonment on January 3, 2003, because the applicant failed to respond to a request for additional evidence dated October 11, 2002.

The applicant filed a second Form I-821, Application for Temporary Protected Status, with CIS on April 24, 2003, under receipt number SRC 03 143 53319, and indicated that she was applying for late initial registration. The director denied the application on June 17, 2003, because the applicant failed to establish her eligibility for late initial registration.

The Director (now Chief) of the AAO subsequently dismissed the applicant's appeal from the denial decision on June 24, 2005, because the applicant had not overcome the ground for denial of the application. The Director also noted that, since the applicant's passport was issued in Honduras on October 5, 2000, she could not establish continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999, as described at 8 C.F.R. § 244.2(b) and (c).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 21, 2005.

The director denied the application on January 10, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration or renewal of her temporary treatment benefits.

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. If an applicant is applying for renewal of temporary treatment benefits, he or she must have a pending TPS application.

In this case, the applicant has not previously been granted TPS. Therefore, she is not eligible to re-register for TPS or to renew temporary treatment benefits. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the applicant did not indicate on the current Form I-821 that she was applying for re-registration or renewal of her temporary treatment benefits; rather, she indicated that she was applying for late initial registration. Therefore, the application will be considered as a late initial registration.

Section 244(c) of the Act, and the related regulations in 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.

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The record reveals that the applicant filed the current TPS application with CIS on January 21, 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 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 her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

As previously explained by the AAO Director in his decision dated June 24, 2005, the applicant does not qualify for late initial registration based on her mother's TPS status because she was 28 years old during the initial registration period for Hondurans. Service regulations may allow the child of an alien currently eligible to be a TPS registrant to file an application after the initial registration period; however, section 101(b)(1) of the Act defines the term "child" as an "unmarried person under twenty-one years of age." Evidence of record reveals that the applicant (who was born on June 25, 1973) was 28 years old during the initial registration period and, therefore, was not considered a "child" for immigration purposes. Since the applicant, during the initial registration period, was not the child of an alien currently eligible to be a TPS registrant, she is not eligible for late registration under 8 C.F.R. § 244.2(f)(2).

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). Additionally, the applicant has not established her qualifying continuous residence and continuous physical presence in the United States during the requisite periods as set forth at 8 C.F.R. § 244.2(b) and (c). Therefore, the application also must be denied for these reasons.

The applicant has now filed three applications for late initial registration. She has failed to establish her eligibility for late initial registration in each proceeding. Furthermore, the applicant **cannot establish her qualifying continuous residence and continuous physical presence in the United States**. Finally, the applicant is ineligible for renewal of her temporary treatment benefits since all three of her applications have been denied and both of her appeals have been dismissed. Any future filings for late initial registration or renewal of temporary treatment benefits will also be denied for these same 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.