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



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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 090 70337]

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.

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 a Form I-765, Application for Employment Authorization, with the Texas Service Center on June 17, 2002, under receipt number SRC 02 202 54560. The applicant stated in a note that accompanied the application that he had submitted a TPS application "last year, but never received any answer from you. I got the receipt notice but [I lost] it." The Director of the Texas Service Center denied the employment authorization application on February 21, 2003, because the applicant was not eligible for temporary treatment benefits since there was no indication in the record that the applicant ever filed a Form I-821, Application for Temporary Protected Status.

On March 6, 2003, the applicant filed an appeal from the denial decision. On appeal, the applicant stated that he submitted a Form I-821, Application for Temporary Protected Status, on June 30, 2000, but he never received work authorization or any response from the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS). The applicant further stated that he submitted a Form I-765 on June 10, 2002. The applicant submitted the following:

1. a photocopy of the front and back of a United States Postal Service (USPS) Form 3811, Domestic Return Receipt, indicating that the Texas Service Center received registered mail from the applicant on July 5, 2000;
2. a photocopy of a Form I-765 and a Form I-821 apparently signed by the applicant on June 30, 2000; and,
3. photocopies of three Western Union money orders payable to INS in the amounts of \$100.00, \$50.00, and \$25.00, all issued on June 30, 2000.

The service center director reopened the case on June 13, 2003, because the denial notice dated June 17, 2002, was mailed to an outdated address. The director noted that while the evidence listed above indicated that it was possible the applicant filed a Form I-821 and a Form I-765 in 2000, there was no indication in the record of proceeding or in INS computer records that the applicant had filed a Form I-821 on or around June 30, 2000. The director granted the applicant 90 days to submit photocopies of reverse sides of the money orders to prove that they had been endorsed by the Texas Service Center on or around June 30, 2000. The director stated that the motion would be considered abandoned if the photocopies of the reverse side of the money orders were not received at the Texas Service Center within 90 days. There is no indication in the record that the applicant responded to the motion within 90 days, or submitted photocopies of the reverse sides of the money orders as requested.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 29, 2004, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits.

The director noted that the applicant was not eligible for re-registration or temporary treatment benefits because there was no evidence in the record of proceeding or CIS computer records that the applicant had ever filed a Form I-821. The director, therefore, considered the application as a late initial application for TPS and denied the application on December 9, 2005, because applicant failed to establish his eligibility for 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 December 29, 2004.

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.

The burden of proof is upon the applicant to establish that he 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 burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his 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 applicant has also failed to establish his 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.

It is noted that the applicant was previously deported from the United States on September 4, 1996.

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.