



U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date: **DEC 27 2006**

[WAC 05 095 73027]

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 a late initial TPS application on November 13, 2002, under CIS receipt number SRC 03 041 54805. The director, Texas Service Center, denied the application on December 29, 2003, because the applicant failed to respond, within 120 days, to a request for evidence, issued on April 16, 2003, to establish her continuous residence in the United States since December 30, 1998, her continuous physical presence since January 5, 1999, and her eligibility for late initial registration. The director, therefore, considered that application abandoned and denied the application. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record reflects that the applicant filed a motion to reopen or reconsider on February 24, 2004. The director denied the motion on September 15, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 3, 2005, and indicated that she was filing an initial application for TPS. The director, California Service Center, denied that application on May 19, 2005, because the applicant's initial TPS application had been denied as the applicant did not establish prima facie eligibility for TPS.

On appeal, the applicant states that she has been in the United States from 1998, and she wishes to have an opportunity to remain in the United States. In an attempt to establish her continuous residence since December 30, 1998, her continuous physical presence since January 5, 1999, and her eligibility for late initial registration, the applicant submits: a statement from [REDACTED] dated April 7, 2005; 4 Washington Mutual Bank, FA, account statements issued in the years 2004, and 2005; 2 money transfer receipts, dated November 13, 2004, and May 22, 2005; a letter from [REDACTED], dated May 26, 2005; an appointment from [REDACTED], dated May 19, 2005; a Mercy pharmacy invoice, dated June 6, 2005; 2 Florida Power and Light Company invoices issued in the year 2004; 2 earnings statements for the pay periods in the year 2004.

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.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish her continuous residence in the United States from December 28, 1998, her continuous physical presence since January 5, 1999, and her eligibility for late initial registration. Therefore, the application will also be denied for these 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.