

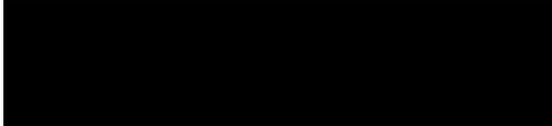


U.S. Citizenship
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Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUL 25 2007

[WAC 05 050 70654]

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.


for 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 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 June 13, 2001, the applicant filed an earlier TPS application under Citizenship and Immigration (CIS) receipt number SRC 01 239 55493. The Texas Service Center Director denied that application on September 18, 2002, because the applicant failed to establish her eligibility for late initial registration. On July 15, 2003, the applicant filed an appeal from the denial decision. The TSC Director treated the untimely appeal as a motion to reopen, and after reviewing the record, dismissed the motion because the applicant had failed to overcome the ground for the denial of her application.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 19, 2004, and indicated that 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 she sent her application for TPS and employment authorization renewal during the regular registration time, and does not understand the reason for the denial of her applications. She asks that her case be reopened and reviewed. In support of the appeal, the applicant submits photocopies of: CIS receipt notices for her 2001 TPS and employment authorization applications; a 2001 fingerprint fee receipt; her employment authorization documents (EAD); her Honduran national identity document issued on November 9, 1999; the biographic page of her Honduran passport issued on October 22, 2001, by the Consulate General, New Orleans, Louisiana; and, another copy of her birth certificate.

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.

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 parole; 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 November 19, 2004.

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. 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). As noted above, the applicant's initial TPS application also was filed outside of the initial registration period. The application was denied and the untimely appeal was dismissed, in part, for this reason. The applicant has not established her eligibility for late initial registration, and, therefore, this application must be denied for this reason.

The applicant also failed to submit sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the requisite periods. The record contains a photocopy of the applicant's Honduran national identity document issued April 27, 1997. The applicant subsequently submitted a copy of her Honduran national identity document issued on November 9, 1999. This precludes a favorable

finding as to her continuous residence and continuous physical presence in the United States during the requisite periods. In addition, some of the documentation appears to have been altered. For example, the printer's edition on the "original" money transfer receipt indicates "©2000," while the date has been handwritten as 1998. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Therefore, the applicant has not met the requirements under 8 C.F.R. § 244.2(b) and (c), and the application must 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.