



U.S. Citizenship
and Immigration
Services

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JUN 01 2006

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 095 75881]

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, 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 July 10, 2003, under CIS receipt number SRC 03 219 54279. The Director of the Texas Service Center denied that application on March 25, 2004, because the applicant failed to establish continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. The Director (now Chief) of the AAO subsequently dismissed the applicant's appeal from the denial decision on June 24, 2005, because the applicant failed to overcome the basis for the denial of the application.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 3, 2005.

The director denied the application on May 19, 2005, 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 indicated on the current Form I-821 that she was applying for late initial registration, not for re-registration or renewal of her temporary treatment benefits. 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 may apply for TPS during the initial registration period, or:

- (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 3, 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).

The applicant has submitted evidence establishing that her mother [REDACTED] has been granted TPS under CIS registration number [REDACTED]. Further, the applicant was an unmarried child under 21 years of age during the initial registration period for Hondurans. Therefore, the applicant has established that she qualifies for late initial registration as the unmarried child of an alien who has been granted TPS as described at 8 C.F.R. § 244.2(f)(2)(iv). However, the application may not be approved.

The record reflects that the applicant was apprehended by the United States Border Patrol on October 20, 2002, near Eagle Pass, Texas. The applicant told the apprehending officers that she left Honduras on September 17, 2002, and entered the United States without inspection on October 20, 2002. Since the applicant did not enter the United States until 2002, she cannot establish continuous residence in the United States since December 30, 1998, or continuous physical presence in the United States since January 5, 1999. Therefore, she cannot satisfy the continuous residence and continuous physical presence requirements set forth at 8 C.F.R. §§ 244.2(b) and (c). The applicant has also failed to submit sufficient evidence to establish her identity and nationality as described at 8 C.F.R. § 244.9(a)(1). Therefore, the application must 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.