



U.S. Citizenship
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Services

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[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: MAY 03 2006

[WAC 05 106 73263]

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:

[REDACTED]

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 the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on May 28, 2002, under receipt number SRC 02 185 54172. The Director of the Texas Service Center denied that application on August 2, 2002, because the applicant failed to establish her eligibility for late initial registration. The Director of the AAO subsequently dismissed the applicant's appeal from the denial decision on April 24, 2003, 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 14, 2005, and indicated that she was re-registering for TPS or renewing her temporary treatment benefits.

The director denied the application on July 23, 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 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) (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 14, 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).

On appeal, counsel for the applicant states that the applicant's parents [REDACTED] have been granted TPS. Counsel explains that the applicant failed to apply for TPS during the initial registration period "due to bad information." Counsel states that the applicant was told she could not apply for TPS "because she entered illegally."

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 February 5, 1977) was 22 years old during the initial registration period and, therefore, was not considered a "child" for immigration purposes. Therefore, the applicant does not qualify for late initial registration based on the fact that her parents have been granted TPS.

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). Therefore, the application also must be denied for this reason.

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.