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U.S. Citizenship  
and Immigration  
Services

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**MAY 08 2006**

FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

[WAC 05 095 74120]

IN RE:

Applicant:



APPLICATION:

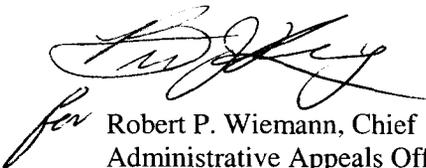
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 the applicant filed an initial TPS application on July 8, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC 02 216 53397. The director denied that application on October 31, 2002, because the applicant failed to establish that she was eligible for late initial registration. On November 13, 2002, the applicant filed an appeal from the denial decision. The AAO reviewed the record of proceeding and the evidence furnished and noted that the applicant had provided no evidence to establish that she had met any of the criteria for late registration; therefore, the AAO dismissed the appeal on March 17, 2003. On May 22, 2003, the Texas Service Center denied the applicant's motion to reopen, filed on May 1, 2003, because it was untimely filed, and that the grounds for the original denial had not been overcome. On August 27, 2003, the applicant appealed the decision of the Texas Service Center dated October 31, 2002. The Texas Service Center rejected the appeal because it was filed after the prescribed 33 days, and that the appeal did not meet the requirements of a motion described in 8 C.F.R. 103.5(a)(2) or (3).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 3, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

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 through August 20, 1999. The record reveals that the applicant filed the current 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 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). Therefore, the application also must be denied for this reason.

The applicant indicated on her TPS application that her date of entry into the United States was November 10, 1997. The record of proceeding contains a copy of an Application for Stay of Deportation dated June 26, 2001, in which the applicant indicated that she departed from the United States because her mother died in November 1998, and that she was caught by the Service while attempting to return to the United States. There is no evidence in the record, however, to establish that the applicant was in fact present in the United States prior to February 24, 1999. The record of proceeding contains Form I-213, Record of Deportable/Inadmissible Alien, indicating that on February 24, 1999, the applicant was apprehended shortly after entering the United States without inspection near Progresso, Texas. She stated, at that time, that she left her country of Honduras approximately January 15, 1999, and traveled through Guatemala into Mexico, and subsequently entered the United States with her husband and minor child. In removal proceedings held on July 12, 1999, at Harlingen, Texas, the applicant failed to appear at the hearing; therefore, the Immigration Judge determined that the applicant had abandoned any and all claims for relief from removal and ordered the applicant removed to Honduras *in absentia*. A Form I-205, Warrant of Removal/Deportation, was issued on December 10, 1999.

Based on the applicant's entry into the United States on February 24, 1999, the applicant, therefore, could not have met the criteria required to establish continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999, because the applicant was not present in the United States during the requisite period described in 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also 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.