



U.S. Citizenship  
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FILE: [REDACTED]  
[WAC 05 103 75322]

Office: CALIFORNIA SERVICE CENTER

Date: MAY 30 2006

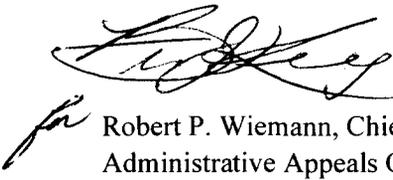
IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT: 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 claims to be a native of Nicaragua and 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 record reveals that on April 30, 2002, the applicant filed an earlier TPS application under Citizenship and Immigration (CIS) receipt number SRC 02 163 55153. The Texas Service Center Director denied that application on October 22, 2002, because the applicant failed to establish her eligibility for late initial registration. On November 18, 2002, the applicant filed an appeal from the denial decision. That appeal was dismissed on March 12, 2003, after the Director (now Chief) of the AAO also determined that the applicant had failed to establish her eligibility for late registration.

On August 25, 2003, the applicant filed a subsequent Form I-821, Application for Temporary Protected Status, and indicated it was an application for re-registration or extension of temporary treatment benefits. The corresponding Form I-765, Application for Employment Authorization, [SRC 03 235 54163], bears an approval stamp dated September 5, 2003. The applicant submitted a copy of her Employment Authorization Document (EAD) indicating it was approved under Category A12, with validity from September 5, 2003 through January 5, 2005. Because this application was filed after the dismissal from the AAO Director, the application should properly have been considered not as an extension of benefits but rather as an application for late initial registration. Moreover, the record does not contain an approved Form I-821 application, and, therefore, the issuance of an EAD under Category A12 was made in error.

The applicant filed the current Form I-821, on January 11, 2005, and indicated 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 has been living in the United States since 1997, and would like to continue working here in order to support her family. In support of the appeal, the applicant submits additional evidence relating to her continuous residence and continuous physical presence in the United States, consisting of: bills dated between 2002 and 2005; generic purchase receipts dated in 2000, 2001 and 2005; generic money orders dated in 1998, 1999 and 2000; health documents dated in 2003 and 2004; insurance documents dated in 2005; bank statements dated in 2005; and, magazine covers addressed to her and postmarked in 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.

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 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 to August 20, 1999. The record reveals that the applicant filed the current application with CIS on January 11, 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. 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 previous TPS application also was filed outside of the initial registration period. That application was denied and the subsequent appeal was dismissed for that reason. Because the applicant has not established her eligibility for late initial registration, this application also must be denied for this reason.

It is noted that the applicant's TPS application and Honduran passport indicate that she was born in Masaya, Nicaragua, while her asylum application indicates that she was born in Managua, Nicaragua. When the applicant withdrew her request for asylum in the United States on December 3, 1991, she indicated that she was a citizen of Honduras. Her Honduran passport reflects that she is a citizen of Honduras under the provisions of Article 2 (illegible) of the Constitution of the Republic. The applicant has claimed Honduran nationality on her TPS applications.

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.