U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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[redacted]

NOV 0 2 2006

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:
[WAC 05 098 76521]

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 on appeal. The appeal will be dismissed.

The applicant claims to be 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 the applicant filed Form I-821, Application for Temporary Protected Status on January 21, 1999 under CIS receipt number SRC 99 117 51553. The application was denied by the Director, Texas Service Center, on November 4, 2003 because the applicant failed to submit documents in response to a Notice of Intent to Deny requesting additional evidence and, therefore, had abandoned his application.

On December 19, 2003, the case was reopened by the Service on its own motion and temporarily vacated the denial of applicant's Form I-821 and I-765 applications after the applicant established that he submitted a response that was rejected by the Texas Service Center because the cover sheet was missing. A second Notice of Intent to Deny requesting certified court dispositions was also mailed to the applicant on the same date after background checks revealed that the applicant was arrested on three other occasions as follows:

(1) On August 2, 2001, the applicant was arrested by the Nashville Police department for patronizing prostitution.
(2) On September 7, 2001, the applicant was arrested by the Nashville Police department for patronizing prostitution.
(3) On June 3, 2003, the applicant was arrested by the Nashville Police department for patronizing prostitution.

The director denied the application on November 12, 2004 because the applicant submitted only one of the three certified court dispositions requested by the Service. There is no record that an appeal was filed for this denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 6, 2005 and indicated that he 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 therefore not eligible to apply for re-registration under TPS.

On appeal, the applicant claims that he was not aware that his previous application was denied on November 12, 2004. He also submitted a case status printout from the USCIS website indicating that the case was still pending. However, the record reveals that a Notice of Decision was mailed to the applicant at his current address on November 12, 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 had not previously been granted TPS. Therefore, he 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 Honduras was from January 5, 1999 through August 20, 1999. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on January 6, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he 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 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.