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U.S. Citizenship  
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

OCT 27 2006

[WAC 05 099 78021]

IN RE:

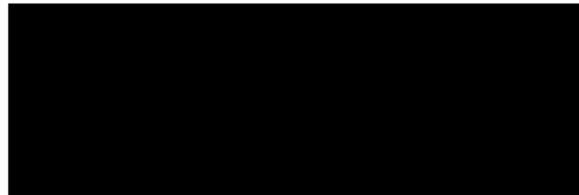
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC), 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 record reveals that the applicant filed a first Form I-821, Application for Temporary Protected Status, with the Texas Service Center (TSC) on August 3, 2001, after the initial registration period had ended (SRC 01 257 56240 relates). On August 2, 2002, that application was denied due to abandonment because the applicant failed to respond to a request for evidence in support of her application. Since the application was denied due to abandonment there was no appeal available; however, the applicant was advised that she could file a request for a motion to reopen within 30 days from the date of the denial. The applicant filed a motion to reopen on July 26, 2004, almost two years after the denial decision. That motion was dismissed by the TSC on August 16, 2004.

The applicant filed the current Form I-821 on January 7, 2005, and indicated that she was re-registering for TPS or renewing her temporary treatment benefits. The director of the CSC denied the application on August 24, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS or renewal. The applicant, through counsel, filed her current appeal of that decision on September 26, 2005.

If the applicant is filing an application for 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 the applicant is applying to renew her temporary treatment benefits, she must have a pending TPS application.

In this case, the applicant has not previously been granted TPS and she no longer has a pending application. Therefore, she is not eligible to re-register for TPS or to renew her 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 an application for late initial registration for TPS instead of an application for 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, through August 20, 1999. As previously discussed, the applicant filed the current application with Citizenship and Immigration Services (CIS) on January 7, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or 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 record reveals that the Hispanic American Alliance, Sarasota, Florida, filed a Form I-140, Immigrant Petition for Alien Worker, on behalf of the applicant with the Texas Service Center (TSC) on July 16, 2001 (SRC 01 220 52757 relates). At the time of filing the application, the company indicated that the applicant had last entered the United States on May 1, 1999. The Form I-140 was denied by the TSC May 13, 2002.

The Hispanic American Alliance, Palmetto, Florida, assisted the applicant in completing her first Form I-821. At the time of filing that application, the applicant indicated that she had last entered the United States on October 15, 1998.

On appeal, counsel claims that the applicant was the victim of ineffective advice of from the Hispanic American Alliance, and that her rights of due process were violated. In support of the appeal, counsel submits a photocopy of an article from the Manatee herald Tribune, dated April 26, 2003, indicating that the leaders of the Hispanic American Alliance had stepped down and that the Florida Bar voted to take action against the company in a complaint scheduled to be filed in May 2003.

In this case, the applicant has failed to provide any evidence to establish that this application should be accepted as an application for late initial registration under any of the provisions of 8 C.F.R. § 244.2(f)(2).

Furthermore, the applicant has not submitted sufficient credible evidence to establish that she satisfies the continuous residence and continuous physical presence requirements under the provisions of 8 C.F.R. §§ 244.2(b) and (c). Therefore, the application must also 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.