



U.S. Citizenship
and Immigration
Services

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MS

[REDACTED]

FILE:

[REDACTED]

Office: California Service Center

Date: **APR 04 2007**

[WAC 05 053 73683]

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.

Robert P. Wiemann

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 is stated 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 a late initial TPS application on February 26, 2002, under CIS receipt number SRC 02 114 55110. The Texas Service Center director denied that application, on November 19, 2002, due to abandonment. The director noted that the applicant failed to respond to a March 21, 2002 notice of intent to deny to submit evidence to establish eligibility for TPS, including eligibility for late initial registration. A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The applicant filed a motion to reopen/reconsider which the director erroneously accepted as an appeal instead of a motion to reopen and forwarded the file to AAO. As the director's decision was based on abandonment, AAO lacked jurisdiction over the case, and therefore, remanded the case to the director to consider the applicant's response as a motion to reconsider. The director reviewed the entire record and determined the applicant had failed to submit evidence to establish eligibility for late initial registration for TPS, and therefore, dismissed the motion on December 13, 2005.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 22, 2004, under CIS receipt number WAC 05 053 73683, and indicated that he was re-registering for TPS.

The director denied that application on July 23, 2005, because the applicant's prior TPS application had been denied and the applicant was not eligible for re-registration for TPS.

On appeal, the applicant states that he has been in the United States since 1998, and he would like the opportunity to be legal in this country. With his appeal, in an attempt to establish his continuous residence and his continuous physical presence in the United States the applicant submits photocopies of:-

- A Florida identification card, issued on May 31, 2005;
- Five money transfer receipts;
- Two Employment Authorization Cards, issued in 2002, and in 2003; and,
- Two Allstate Motor Club, Inc. Roadside Advantage membership identification cards.

However, this evidence does not mitigate the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period.

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, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is also noted that the applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). As noted above, the record of proceeding does not establish

the applicant's eligibility for late initial registration. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it is noted that although the record of proceedings contains a Honduras birth certificate and English translation, the applicant has not submitted a national identity document from his country bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1). 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.