

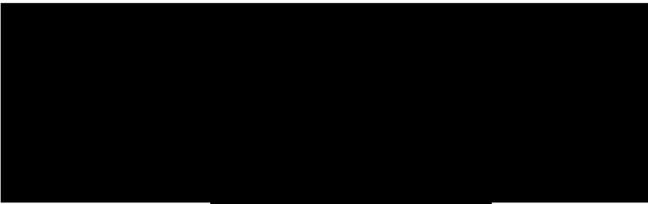


U.S. Citizenship  
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Services

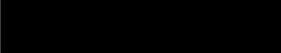
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FILE:



Office: California Service Center

Date: **APR 05 2007**

[WAC 05 047 72310]

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.

Robert P. Wiemann, Director  
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 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 a late initial TPS application on July 7, 2003, under CIS receipt number SRC 03 199 55023. The director, Texas Service Center, denied that application on January 14, 2004, because the applicant failed to establish that she was eligible for late initial registration for TPS, and failed to establish her continuous residence in the United States since December 30, 1998, and her continuous physically presence since January 5, 1999. The record does not reflect that the applicant appealed the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 16, 2004, under CIS receipt number WAC 05 047 72310, and indicated that she was filing an initial application for TPS. The director categorized the application as a re-registration application and denied that application on August 3, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

On appeal the applicant states that she entered the United States in June 1999 and she filed for TPS "on the second annual registration." With the appeal, in an attempt to establish her eligibility for TPS, the applicant submits copies of: a Notice to Appear, Form I-862, dated June 13, 1999; biographic pages of her passport; 4 CIS receipt notices, 2 dated July 14, 2003, and 2 dated November 17, 2004; a CIS Application Information Worksheet, dated December 24, 2004; and a CIS Fingerprint Notification, dated November 29, 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.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until July 5, 2007, upon the applicant's re-registration during the requisite period. The record reveals that the applicant filed this application with Citizenship and Immigration Services (CIS) on November 16, 2004.

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 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.

It is noted that the record reflects that the applicant was detained by the U.S. Border Patrol as she attempted to enter the United States on June 12, 1999. Therefore, the applicant cannot establish continuous residence and continuous physical presence in the United States during the requisite periods. Consequently, the application must be denied for these additional reasons.

It is also noted that the record reveals that the applicant was placed in Removal Proceedings, and ordered removed to Honduras, on November 27, 2000, by an Immigration Judge.

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.