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

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APR 27 2007

FILE: [REDACTED]
[WAC 05 225 85944]

Office: CALIFORNIA SERVICE CENTER

Date:

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.

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, 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 August 20, 1999 under CIS receipt number SRC 99 259 50030. The application was initially approved by the Director, Texas Service Center, on April 20, 2000. However, the applicant's TPS status was withdrawn on January 27, 2003 because he failed to re-register for TPS in 2000.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 13, 2005 and indicated that he was re-registering for TPS.

The Director denied the re-registration application because the applicant's TPS had been withdrawn and the applicant was therefore not eligible to apply for re-registration under TPS.

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.

On appeal, the applicant claims that he re-registered for TPS in 2000 and 2001. He submitted copies of notices of action for case numbers SRC 01 251 52802 and SRC 02 202 54975 mailed to him by the Service to support this claim. However, a review of the above-mentioned evidence does not indicate that he re-registered in 2000.

It is further noted that the result of the fingerprints provided by the applicant shows that he had been arrested on the following occasions:

- (1) On December 22, 1992, he was arrested by the Miami Police Department for Aggravated Battery, a felony.
- (2) On October 23, 1996, he was arrested by the Metro-Dade Police Department for Petty Larceny, a misdemeanor,
- (3) On December 12, 1996, he was arrested by the Metro-Dade Police Department for loitering and Prowling, a misdemeanor.
- (4) On February 13, 1997, he was arrested by the Miami Police Department for Vehicle Theft, a felony; Larceny, a misdemeanor; and Fleeing/Eluding Police .
- (5) On March 1, 2001, he was arrested by the Miami Police Department for Disorderly Conduct, a misdemeanor.

These offenses must be addressed in any further immigration proceedings.

In this case, the applicant's previous grant of TPS has been withdrawn. 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 May 13, 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.