



U.S. Citizenship  
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FILE:



Office: CALIFORNIA SERVICE CENTER

AUG 01 2007  
Date:

[WAC 06 024 70402]

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.

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 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 TPS application during the initial registration period under CIS receipt number EAC 99 257 50919. The director denied that application on June 9, 2000, because the applicant failed to establish his qualifying continuous physical presence in the United States during the requisite time period. The applicant did not file a motion to reopen or an appeal of the director's decision.

The applicant filed a second TPS application subsequent to the initial registration period under CIS receipt number EAC 03 188 51470. The director denied that application on September 18, 2003, because the applicant failed to establish his eligibility for TPS. The applicant did not file a motion to reopen or an appeal of the director's decision.

The applicant filed a re-registration application under CIS receipt number WAC 05 077 71154. The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant did not file a motion to reopen or an appeal of the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on October 24, 2005, and indicated that he was filing a late initial application.

The director denied the application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for 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.

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 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 Hondurans was from January 5, 1999 to August 20, 1999. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on October 24, 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).

Counsel states that the applicant is eligible for late registration as a child of a TPS applicant. The applicant submitted a copy of his birth certificate, a copy of [REDACTED] employment authorization card, and her TPS approval notice.

The applicant has failed to provide sufficient evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). A review of the record of proceeding for [REDACTED] shows that that applicant filed Form I-821, Applications for Temporary Protected Status and Form I-765, Applications for Employment Authorization on August 13, 1999, August 2, 2000, May 24, 2001, May 22, 2002, December 8, 2004, and May 2, 2006. In Part 3, section 2 of the application, [REDACTED] was requested to list the names, dates of birth, and current residence of her children. Although the applicant repeatedly listed [REDACTED], and [REDACTED] as her children, she never listed the applicant as her child; his name, his date of birth, or his current residence. Doubt cast on any aspect of the

applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the inconsistencies. Therefore, the application will also be denied for this reason.

Beyond the decision of the director, the applicant cannot demonstrate his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999, to October 24, 2005, the date of filing. The record of proceeding contains a copy of the applicant's Honduran passport issued to him in Honduras on September 3, 2005. The applicant cannot therefore demonstrate continuous residence and continuous physical presence during the requisite time periods as required by 8 C.F.R. §§ 244.2(b) and (c). For this additional reason, the TPS application will be denied.

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.