



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: AUG 24 2007

[WAC 05 076 70670]

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 California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "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 (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 01 253 50271 after the initial registration period had closed. The Director, Texas Service Center, denied that application on September 29, 2003, after determining that the applicant had failed to establish he was eligible for late initial registration. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821 on December 15, 2004, and indicated that he was re-registering for TPS.

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.

If an alien is filing a re-registration application, 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.

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.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

Furthermore, the applicant has provided insufficient evidence to establish that he is a national or citizen of Honduras. He has provided a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a) and § 244.9(a)(1).

The identity and nationality of an applicant is fundamental to the applicant's claim for TPS. The record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated November 3, 1995 indicating that the United States Border Patrol apprehended the applicant after he illegally entered the United States near Brownsville, Texas on that day. In his statement, he told the interviewing Senior Border Patrol Agent that his name was [REDACTED], that he was born on [REDACTED] and that his father was named [REDACTED] and his mother was named [REDACTED]. However, the applicant's birth certificate, his TPS applications, his applications for employment authorization and other documents contained in the record show his name as [REDACTED] that he was born on [REDACTED] and that his father was named [REDACTED] and his mother was named [REDACTED]. The applicant has not submitted any evidence to resolve this conflicting claim.

The applicant's conflicting claims as to his true identity and date of birth not only discredit the applicant's claim as to the critical elements of identity and nationality, but, in the absence of an explanation or rebuttal, also indicate an overall lack of credibility regarding the entire claim. *Cf. Matter of O-D-*, 21 I&N Dec. 1079 (BIA 1998). 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).

In removal proceedings held on July 15, 1997, an Immigration Judge in Atlanta, Georgia, ordered the applicant deported "in absentia" to El Salvador. It is further noted that the record contains an outstanding Form I-205, Warrant of Removal/Deportation, under the name [REDACTED] issued by the District Director of the Atlanta, Georgia, office of Citizenship and Immigration Services, (formerly, the Immigration and Naturalization Service) on June 12, 1998.

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 cited 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.