



U.S. Citizenship
and Immigration
Services

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FILE:

[WAC 05 106 79120]

Office: CALIFORNIA SERVICE CENTER

Date: AUG 31 2007

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office. The appeal will be reopened, sua sponte, by the Chief, Administrative Appeals Office, and the appeal again 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 director denied the applicant's initial application on June 26, 2003, after determining that the applicant had abandoned his application. The applicant filed the current application on January 14, 2005, 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.

A subsequent appeal from the director's decision was dismissed on April 19, 2007, after the Chief of the AAO also concluded that the applicant had failed to establish that he was eligible for re-registration. In response to the AAO's decision, counsel pointed out that the applicant is Honduran, not Salvadoran as was stated in the decision; however, he did not move to reopen the case, nor did he suggest that the applicant was eligible for re-registration. Counsel did not assert that the AAO's decision was incorrect based on the evidence of record as is required of motions to reopen under 8 C.F.R. § 103.5(a)(3). Nevertheless, because of the previous error, the appeal is hereby reopened.

The applicant filed his first TPS application under CIS receipt number SRC 02 136 54058 on March 27, 2002, more than two years after the closing of the initial registration period for Hondurans. The Director, Texas Service Center, denied that application on June 26, 2003, after determining that the applicant had abandoned his application by failing to respond to the director's request for evidence establishing his eligibility for late registration under 8 C.F.R. § 244.2(f)(2). The applicant did not appeal the director's decision; however, after a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current application with the California Service Center on January 14, 2005, and indicated that he was re-registering 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.

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.