



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
[WAC 05 103 74638]

Office: California Service Center

Date: **DEC 19 2007**

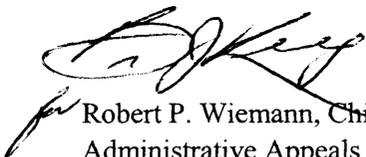
IN RE: Applicant: [REDACTED]

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.

  
for 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, after the initial registration period, the applicant filed an initial TPS application on January 3, 2002, under CIS receipt number SRC 02 075 54028. The Texas Service Center Director denied that application on January 7, 2002, because the applicant could not establish eligibility for late initial registration, her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. The director noted that the record revealed that the applicant entered the United States on September 15, 2001, after the registration period for Hondurans. The record does not reflect that the applicant filed an appeal of that decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 11, 2005, under CIS receipt number WAC 05 103 74638, and indicated that she was re-registering for TPS.

The Director, California Service Center, denied the re-registration application on June 24, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states that she is eligible for late initial registration as the spouse of a TPS registrant. With her appeal, the applicant submits documents, including a marriage certificate, and copies of Employment Authorizations Documents.

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.

Beyond the decision of the director, it is noted that the record reflects that the applicant is married to a TPS registrant, and therefore, she is eligible for late initial registration for TPS. However, while the regulations may allow the spouse of an alien who is TPS eligible to file their applications after the initial registration period had closed, these regulations do not relax the requirements of eligibility for TPS. The applicant has not submitted sufficient evidence to establish her continuous residence and her continuous physical presence in the United States during the requisite period. It is noted that the applicant stated on her Form I-821, Application for Temporary Protected Status, that she entered the United States on September 15, 2001, after the registration period for Hondurans. Also, the record reveals that the applicant was apprehended on entry on September 15, 2001, and placed in proceedings. Therefore, the applicant cannot establish continuous residence and continuous physical presence in the United States during the requisite period. Consequently, the application will also be denied for these reasons.

As noted above, that the record reveals that the applicant was apprehended on entry by the U.S. Border Patrol, Eagle Pass, Texas, on September 15, 2001, was placed in Deportation Proceedings, and ordered removed, *in absentia*, to Honduras, on February 27, 2002, by the 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.