



U.S. Citizenship
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FILE: [REDACTED]
[WAC 05 226 70785]

Office: California Service Center

Date: DEC 19 2007

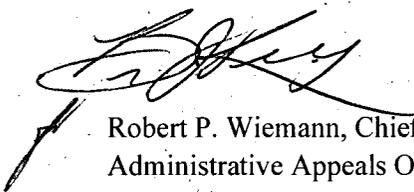
IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:
[REDACTED]

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.


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 is 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 record reveals that the applicant filed an earlier TPS application on June 28, 2002, after the initial registration period had closed, under Citizenship and Immigration Services (CIS) receipt number SRC 02 214 53981. The Texas Service Center director denied that application on November 6, 2002, because the applicant failed to establish his eligibility for late initial registration under the provisions of 8 C.F.R. § 244.2(f)(2) and (g). The applicant submitted an untimely motion to reopen and reconsider on February 3, 2003. On February 20, 2003, the director again denied the TPS application because the applicant had not alleged any new facts, which if proved, would establish eligibility for TPS. The applicant appealed the director's decision on March 17, 2003. The Chief, AAO, has addressed that appeal in a separate decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 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.

On appeal, the applicant states that he will submit a brief and/or evidence within 30 days. To date, the applicant has not submitted any additional evidence; therefore, the record must be considered complete.

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, through August 20, 1999. The record reveals that the applicant filed this TPS application with Citizenship and Immigration Services (CIS), on May 14, 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 establish that this application should be accepted as an application for late initial registration. The applicant has not established that he has met any of the criteria for late initial registration under the provisions of 8 C.F.R. § 244.2(f)(2) and (g). Therefore, the application also must be denied for this reason.

It is noted that Form I-213, Record of Deportable Alien, was issued on November 5, 1990, based on the applicant's entry into the United States without inspection on October 16, 1985.

The application will be denied for the above 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.