



U.S. Citizenship
and Immigration
Services

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FILE:

[WAC 05 196 73107]
[SRC 03 173 55876]

Office: CALIFORNIA SERVICE CENTER

Date: **FEB 16 2007**

IN RE:

Applicant:

APPLICATION:

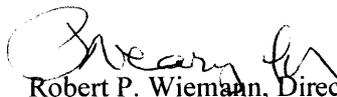
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

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.


Robert P. Wiemann, Director
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 stated 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 record reveals that the applicant filed a late initial TPS application on June 4, 2003, under Citizenship and Immigration Services (CIS) receipt number SRC 03 173 55857. The director, Texas Service Center, denied that application on August 22, 2003, because the applicant failed to respond, within 30 days, to a June 17, 2003 request for evidence to establish: his continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999; his nationality and identity; and his eligibility for late initial registration for TPS. The director noted that the notice was mailed to the applicant's most recent address; however, the notice was returned as undeliverable. The director, therefore, considered that application abandoned. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R., § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 14, 2005, under CIS receipt number WAC 05 196 73107, and indicated that he was re-registering for TPS.

The director denied the re-registration application, on July 23, 2005, 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.

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).

Beyond the decision of the director, the applicant has not submitted evidence of his nationality and identity as required under 8 C.F.R. § 244.9(a)(1). In addition, the applicant has not submitted sufficient evidence to establish his qualifying residence and continuous physical presence in the United States during the requisite periods. Therefore, the application must also be denied for these reasons.

It is noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant was arrested on January 28, 2006, in Coral Gables, Florida, and charged with Driving under the

Influence. In any future proceedings before CIS, the applicant must provide evidence of the final court disposition of this arrest and any other charges against him.

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.