



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: JAN 04 2007

[WAC 05 204 78819]

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, 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 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 his initial TPS application with Citizenship and Immigration Services (CIS) on July 3, 2002, under receipt number SRC 02 229 54325. On December 10, 2002, the applicant was requested to submit evidence to establish his identity and nationality, his qualifying continuous residence and continuous physical presence in the United States during the requisite periods, and his eligibility for late initial registration. The notice was sent to the applicant's address of residence, but the record does not contain a response from the applicant. The Director of the Texas Service Center denied the application on January 14, 2003, due to abandonment because the applicant failed to respond to the request for additional evidence. The applicant did not file a motion to reopen the case.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 22, 2005.

The director denied the application on September 20, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration or renewal of his temporary treatment benefits.

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. If an applicant is applying for renewal of temporary treatment benefits, he or she must have a pending TPS application.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS or to renew temporary treatment benefits. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the applicant did not indicate on the Form I-821 that he was applying for re-registration or renewal of temporary treatment benefits; rather, he indicated that he was applying for late initial registration. Therefore, the application will be considered as an application for late initial registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;

- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
 - (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 the current TPS application with CIS on April 22, 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 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 burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On appeal, the applicant states that he was a 17-year-old minor when he entered the United States in November 1998. He asserts that he qualifies for late initial registration because his mother, [REDACTED] had been granted TPS. The applicant states that his mother has subsequently been granted lawful permanent residence and has filed a Form I-130, Petition for Alien Relative, on his behalf, seeking to classify him as the unmarried child of a lawful permanent resident. The applicant provides documents establishing that his mother [REDACTED] was previously granted Temporary Protected Status under CIS registration number [REDACTED], and that Ms. [REDACTED] has subsequently been granted lawful permanent residence. The applicant also submits a receipt acknowledging receipt of a Form I-130 filed on the applicant's behalf by [REDACTED] on February 18, 2002. CIS computer records indicate that this petition was approved on November 1, 2005.

In order to qualify for late initial registration as the child of a Honduran citizen who has been granted TPS, the applicant was required to file his initial TPS application within 60 days of the date he reached his twenty-first birthday. The applicant, who was born on March 17, 1981, turned twenty-one years old on March 17, 2002. Therefore, the applicant was required to file his TPS application on or before May 17, 2002. The applicant did not file his initial TPS application until July 3, 2002, and he did not file the current TPS application until April 22, 2005. Therefore, the applicant does not qualify for late initial registration on this basis.

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). The applicant has also failed to establish his identity and nationality as described at 8 C.F.R. § 244.9(a)(1). Additionally, the applicant has not established his qualifying continuous residence and continuous physical presence in the United States during the requisite periods as described at 8 C.F.R. § 244.2(b) and (c). Therefore, the application also must be denied for these reasons.

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.