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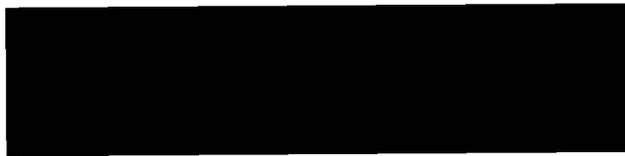
JAN 05 2007

FILE: [REDACTED]
[WAC 05 062 74100]

Office: CALIFORNIA SERVICE CENTER

Date:

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 California Service Center. Any further inquiry must be made to that office.

Cindy M. Gomez 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 (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 initial TPS application on July 8, 2003, under Citizenship and Immigration Services (CIS) receipt number SRC 03 201 56186. The Texas Service Center (TSC) Director denied that application on November 3, 2003, because the applicant failed to establish his eligibility for late initial registration, and his continuous physical presence in the United States since January 5, 1999. On December 15, 2003, the applicant filed an appeal from the denial decision. The Director (now Chief) of the AAO rejected the appeal on October 26, 2004, because it was untimely filed.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 1, 2004, 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 did not file for TPS during the initial registration period because he was a teenager at that time. In support of the appeal, the applicant resubmits evidence that had previously been entered into the record.

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 to August 20, 1999. The record reveals that the applicant filed the current application with CIS on December 1, 2004.

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 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). As noted above, the applicant's initial TPS application also was filed outside of the initial registration period, and was denied for that reason. Because the applicant has failed to establish his eligibility for late initial registration, this application also must be denied for this reason.

The applicant also has not submitted sufficient evidence to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence since January 5, 1999. The applicant's Honduran national identity document indicated that it was issued to him on December 3, 1999, and precludes a favorable finding as to his continuous residence and continuous physical presence in the United States during the requisite periods. The applicant has not established that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c), and the application must also be denied for these reasons.

In addition, an alien shall not be eligible for temporary protected status under this section if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors [as defined at 8 C.F.R. § 244.1] committed in the United States. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

The Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant was arrested on January 26, 2004, by the Miami Beach Police Department, Florida, and charged with: Charge 001- "Nonmoving Traffic Violation-Tag Not Assigned to Vehicle," and Charge 002- "Hit and Run-Leaving Scene of Crash Injury," Statute/Ordinance FL316.027(1a), a 3rd Degree felony.

The record does not contain the final court dispositions for all of the charges detailed above. Therefore, this issue must be addressed in any future proceedings before the Department of Homeland Security as it has bearing on the applicant's eligibility for TPS, and/or may have bearing on his admissibility.

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.