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U.S. Citizenship
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Services

MI

[REDACTED]

FILE: [REDACTED]
[WAC 05 083 76050]

Office: CALIFORNIA SERVICE CENTER

Date: JAN 05 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 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 (CSC), 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 record reveals that the applicant filed a first Form I-821, Application for Temporary Protected Status, with the Texas Service Center (TSC) on February 12, 1999, during the initial registration period for Hondurans (SRC 99 130 51187 relates). On July 16, 2003, the applicant was requested to submit evidence in support of his application. The director of the TSC determined that the applicant had failed to provide all of the evidence requested, and denied the application on September 29, 2003.¹ An appeal from that decision was dismissed by the AAO on March 21, 2005.

The applicant filed this Form I-821 on December 22, 2004, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits. The director of the CSC denied the application on July 15, 2005, because the applicant's prior TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS or renewal. The applicant filed his current appeal from that decision on August 16, 2005.

If the applicant is filing an application for 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 the applicant is applying to renew his temporary treatment benefits, he must have a pending TPS application.

In this case, the applicant has not previously been granted TPS and he no longer has a pending application. Therefore, he is not eligible to re-register for TPS or to renew his temporary treatment benefits. 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 an application for late initial registration for TPS instead of an application for 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;

¹ Both the request for evidence, dated July 16, 2003, and the notice of denial, dated September 29, 2003, were mailed to the applicant at his address of record: [REDACTED] Neither was returned as undeliverable.

- (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. As previously discussed, the applicant filed the current application with Citizenship and Immigration Services (CIS) on December 22, 2004.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she 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). Furthermore, the applicant has not submitted sufficient evidence to establish his nationality and identity, as required under the provisions of 8 C.F.R. § 244.9(a)(1). He also has failed to submit sufficient evidence to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). The application must also be denied for these reasons.

It is noted that as a result of being fingerprinted in connection with his initial application for TPS, CIS received a report from the Federal Bureau of Investigation (FBI) indicating that the applicant was arrested and charged with the following misdemeanor offenses by the Medro-Dade Police Department: (1) Prostitution/Solicitation on January 21, 1993; and, (2) Prostitution on June 27, 1994. In any future proceedings before CIS, the applicant must submit **final** court documentation, specifically identifying the charges and dispositions, of these and any other charges against him.

It is further noted that the applicant's removal proceedings were terminated by an Immigration Judge on August 3, 1999.

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.