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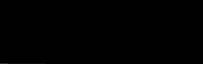
U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER DATE: **JAN 25 2007**

[WAC 01 265 58838]

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, Chief
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 a native and citizen of Honduras who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, the applicant submits a statement and additional evidence.

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.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS) on August 6, 2001.

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 July 17, 2003, the applicant was requested to submit evidence establishing his eligibility for late initial registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying residence and physical presence in the United States during the requisite periods and the final court dispositions of all arrests since his arrival in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in the United States and a document relating to an arrest on April 26, 2001; however, he failed to submit any evidence to establish his eligibility for late initial registration.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on November 12, 2003.

On appeal, the applicant claims that he did submit an initial Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service (the Service), now CIS, on August 20, 1999, but the Service lost his application and provided him with another opportunity to file an initial Form I-821 on August 6, 2001. He asserts that his TPS application filed on August 6, 2001, was accepted as timely filed. The applicant submits the following evidence in support of his claim:

1. a photocopy of a Form I-821 and a Form I-765, Application for Employment Authorization, purportedly signed by the applicant on August 20, 1999;

2. a photocopy of a CIS notice acknowledging receipt of a Form I-821 from the applicant on August 6, 2001, under receipt number WAC 01 265 58838;
3. photocopies of CIS notices acknowledging receipt of Forms I-765 from the applicant on: August 6, 2001; May 15, 2002; and, June 2, 2003;
2. photocopies of Forms I-821 and I-765 signed by the applicant on: July 24, 2001; May 12, 2002; and, May 28, 2003.

The applicant claims that he mailed a Form I-821 to the Service on about August 20, 1999, and submitted a photocopy of a Form I-821 purportedly signed on August 20, 1999 (No. 1 above) in support of his claim. However, he has not submitted any evidence to corroborate that the application was ever received by the Service on or about August 20, 1999, and subsequently lost. Nor has he provided any evidence to establish that the current Form I-821 was accepted at the California Service Center as timely filed on August 6, 2001. Clearly, the application was **not** accepted as timely filed since the application was denied because the applicant failed to establish his eligibility for late initial registration. Therefore, the applicant's claim cannot be accepted.

The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods as set forth at 8 C.F.R. § 244.2(b) and (c).

Furthermore, the applicant's 2002 Federal Bureau of Investigation (FBI) fingerprint results report revealed that he was arrested in Fresno, California, on April 25, 2001, and charged with one count of using a false citizenship document and one count of perjury. On July 13, 2003, the applicant was requested to provide the final court dispositions of all arrests since his arrival in the United States. The applicant, in response, provided a document from the Superior Court of California, County of Fresno, indicating that a criminal record had been found for the applicant relating to charges filed against the applicant on April 26, 2001, under case number [REDACTED] however, the applicant failed to provide the final court disposition of this arrest. The applicant is also ineligible for Temporary Protected Status because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Therefore, the application also must be denied for this reason.

Furthermore, the applicant's 2005 fingerprint results report revealed a subsequent arrest in Los Angeles, California, on June 25, 2005, on the charge of driving under the influence of alcohol. This arrest must be addressed in any further proceeding before CIS.

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 TPS 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.