



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 099 79437]

JAN 26 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:



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 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 TPS application during the initial registration period under CIS receipt number SRC 99 224 53024. The Texas Service Center (TSC) director denied the application on April 19, 2004, after determining that the applicant had abandoned his application by failing to appear for fingerprinting. After a review of the record, the Chief, AAO, concurs with the TSC director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 7, 2005, 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.

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). The applicant's adjustment of status application was denied on April 25, 2003, by an Immigration Judge at Miami, Florida.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his qualifying continuous physical presence and continuous residence during the requisite time periods. 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also be denied for these reasons.

Although not addressed by the director, the record of proceedings contains documentation regarding the following arrests and charges:

- 1) On June 12, 1998, the applicant was arrested by the Germantown Police Department and charged with "No Drivers License", "Violation of Registration", and "Lights – Generally". The applicant pled guilty to the first and second counts above;
- 2) On September 13, 1999, the applicant was arrested by the Germantown Police Department and charged with "Contempt of Court" in relationship to No. 1 above;
- 3) On April 22, 2000, the applicant was arrested by the Germantown Sheriff's Office and charged with "Driving Under the Influence", "Public Intoxication", and two counts of

- “Reckless Driving”. The applicant pled guilty to “Driving Under the Influence” and was sentenced to two days in jail and paid a fine of \$400;
- 4) On April 9, 2003, the applicant was arrested by the Memphis Police Department and charged with “Speeding”;
 - 5) On May 14, 2003, the applicant was arrested by the Shelby County Sheriff’s Office for “Reckless Driving” and “Speeding”; and,
 - 6) On June 4, 2004, the applicant was arrested by the DeSoto County Sheriff’s Office and charged with “DUI 1st Offense”, “No Proof of Insurance”, “Tags None”, and “Leaving Scene of Accident”. On September 23, 2004, the applicant was found guilty for “DUI First”, “Expired Tags” and “No Proof of Insurance”.

According to the documentation regarding the applicant’s arrests and convictions, the applicant had been convicted of at least two misdemeanors in the United States as stated in Nos. 3 and 6 above.

The applicant is ineligible for TPS due to his record of two misdemeanor convictions detailed above. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Therefore, the application for TPS will also be denied on this ground, and the applicant remains ineligible for TPS.

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.