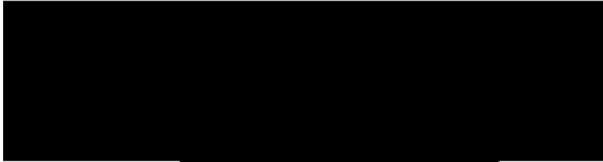




U.S. Citizenship
and Immigration
Services

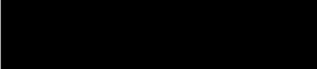
PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



M1

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 223 93248]

JAN 26 20

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 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 WAC 01 187 51569. The director denied that application on October 13, 2004. On November 16, 2004, the applicant, through counsel, filed a motion to reopen. The director granted the motion and denied the application on November 30, 2004, because the applicant was determined to be ineligible for TPS due to his past convictions. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 11, 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 the Federal Bureau of Investigation report reflecting that the applicant was arrested on June 2, 2002, by the Santa Ana, California Sheriff's Office and charged with: "1 Count of DUI Alcohol/Drugs", and "1 Count of DUI Alcohol/0.08 Percent". The record also contains copies of the court disposition and court docket from the Superior Court of the State of California, Orange County, revealing that the applicant pled guilty to both misdemeanor counts.

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.

It is noted that the applicant was ordered removed, *in absentia*, by an Immigration Judge on May 14, 1997, at Los Angeles, California. Further, the record contains a Warrant of Removal issued at Los Angeles, California on June 9, 1997.

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.