

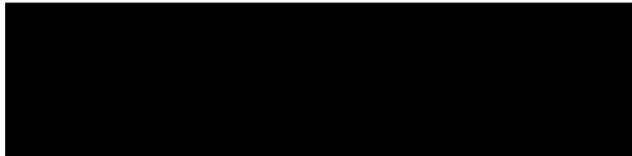
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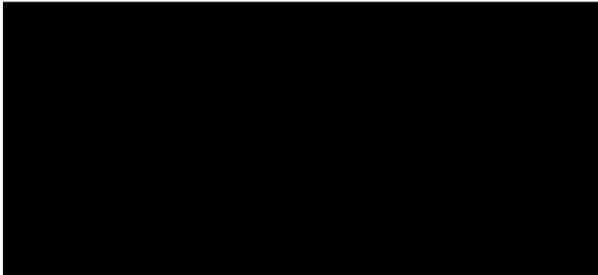
Office: CALIFORNIA SERVICE CENTER

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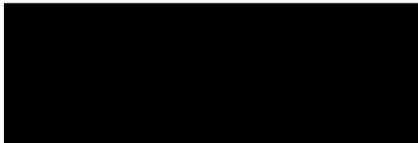
IN RE:

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 for*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The initial TPS application was denied by the Director, Vermont Service Center. A subsequent application for re-registration 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 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 TPS application during the initial registration period on July 14, 1999, under CIS receipt number SRC 99 229 51957. The director denied that application on February 27, 2004, because the applicant failed to submit final court dispositions stemming from his arrest, as requested.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 11, 2005, and indicated that he was re-registering for TPS.<sup>1</sup>

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.

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 committed in the United States. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

The record reveals the following offenses:

- The applicant was arrested on May 7, 2000, in Lake Worth, Florida, and charged with failure to appear, [classification not defined].
- The applicant was arrested on October 11, 2001, in Lake Worth, Florida, and charged with one count of resisting arrest without violence, and the case was *nolle prossed* on January 9, 2002.
- The applicant was arrested on January 22, 2002, in Lake Worth, Florida, and charged with: (1) cruelty toward child under 21; impregnate child under 16; child abuse, a 3<sup>rd</sup> degree felony under Florida Statute FL827.04(3); and (2) lewd and lascivious battery.

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<sup>1</sup> The applicant also filed other TPS re-registration applications in 2002, 2003, and 2004.

The applicant entered into a Pre-trial Intervention and a Deferred Prosecution Agreement on August 12, 2002, and the charges were *nolle prossed* on September 23, 2003.

The director requested that the applicant submit a final court disposition stemming from his May 7, 2000 arrest. The applicant is responsible for providing all evidence revealing the final court dispositions of his arrests as detailed above. The applicant failed to provide the final court disposition stemming from his May 7, 2000 arrest.

On appeal, the applicant states that the above noted crime was a traffic infraction only, that there was an identity issue with a relative concerning the case, and that there were no court records of the above noted arrest under his name. In an Emergency Motion for Continuance of the applicant's case before the Immigration Judge, dated May 30, 2007, counsel states that the applicant's 2000 criminal case is scheduled to be before the court in Lake Worth, Florida, on June 4, 2007, and therefore, the outcome of the matter is not yet known.

A person applying for TPS offered to Hondurans must demonstrate that he or she is a citizen or national of a state designated under section 244(b) of the Act.

The regulations at 8 C.F.R. § 244.9, state that each application for TPS must be accompanied by evidence of the applicant's identity and nationality.

There has been insufficient evidence submitted to establish the applicant's eligibility for TPS as an Honduran national. The applicant submitted a copy of his claimed Honduran birth certificate along with a certified English translation. The document indicated that the applicant's name was [REDACTED] and that his date of birth was April 27, 1978. In contrast, the applicant also submitted another copy of his claimed Honduran birth certificate along with a certified English translation. This document indicated that the applicant's name was [REDACTED] and that his date of birth was August 27, 1978. The applicant also presented at various times, his date of birth as March 31, 1978, and as August 26, 1978. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the inconsistency.

It is noted that the applicant has failed to submit sufficient evidence to establish his continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States as described in 8 C.F.R. § 244.2(b) and (c). As evidence, the applicant submitted the following: copies of Western Union money order receipts dated May 15, 1998 and June 22, 1999; an Honduran identification card from the consulate general's office in Miami, Florida, dated June 23, 1999; a Florida identification card with an indiscernible issue date; a copy of the applicant's marriage certificate dated May 3, 2004; copies of his personal income tax records for the 2003, 2004, and 2005 tax years; a copy of the applicant's child's birth certificate dated March 13, 2002; copies of two handwritten rent receipts bearing the applicant's name and dated March 2<sup>nd</sup> and March 3<sup>rd</sup>; copies of

photos of the applicant and his family; and copies of the applicant's bills and receipts dated 2002, 2003, 2004, 2005, and 2006. There has been insufficient evidence submitted to establish the applicant's continuous presence in the United States in 1998 or 1999.

Although the outcome of the applicant's 2000 criminal case has not yet been provided as of the date of this decision, the applicant has failed to explain the discrepancies concerning his identity and nationality, specifically his true name and date of birth, as noted above. It is also noted that the applicant has failed to submit sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the requisite time periods; and therefore, the appeal will be dismissed.

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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

**ORDER:** The appeal is dismissed.