



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUN 25 2007

[WAC 05 148 81528]

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 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 March 3, 1999, under receipt number EAC 99 190 50073. The Director, Vermont Service Center (VSC) denied that application based on abandonment on May 10, 2000, because the applicant had failed to respond to a request dated October 16, 1999, to submit evidence to establish continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The VSC director also dismissed the applicant's motion to reopen, filed on June 9, 2003, because the motion was untimely filed.

The applicant filed a subsequent TPS application on May 16, 2004, under Citizenship and Immigration Services (CIS) receipt number EAC 04 159 50799, and indicated that that was his "first application to register for Temporary Protected Status (TPS)." The VSC director denied that application on September 30, 2005, because the applicant had failed to respond to a request dated July 21, 2005, to submit evidence to establish that he was eligible for late registration. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 25, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts that he has been residing in the United States since 1989, he applied for political asylum in the United States in 1993, but his application was denied based upon the advice of his attorney because they did not have all the evidence requested by Immigration. He requests reconsideration because he needs employment in order to continue to support his family who reside in Honduras. He submits additional evidence in an attempt to establish continuous residence and continuous physical presence during the requisite period.

The record indicates that on May 10, 1993, the applicant filed Form I-589, Request for Asylum in the United States. On January 15, 1997, a notice was issued advising the applicant to appear for an interview on February 5, 1997, regarding his asylum application. The applicant, through his attorney, advised that he would not be attending the interview and requested that the asylum application be withdrawn. On September 2, 1997, the application was withdrawn and the case was administratively terminated and closed.

The applicant is filing the current TPS application as a re-registration; therefore, 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 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.