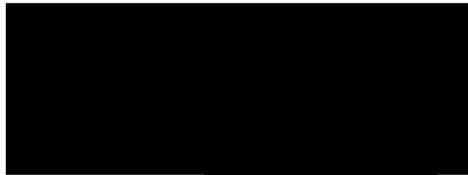




U.S. Citizenship
and Immigration
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MI

FILE: [REDACTED]
[SRC 03 223 53833]

OFFICE: TEXAS SERVICE CENTER

DATE: MAR 01 2007

IN RE: Applicant: [REDACTED]

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, Texas 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 claims his eligibility for late registration.

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 application with Citizenship and Immigration Services (CIS) on August 11, 2003.

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 or she 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 or her 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 March 31, 2004, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his nationality. The applicant, in response, provided documentation relating to his Honduran nationality.

The director determined that the applicant had failed to establish that he was eligible for late registration and denied the application on April 16, 2004.

On appeal, the applicant states that he filed his first TPS application within the required registration period. He specifically states that he filed his application on April 12, 1999, that the service center rejected the application and returned it to him, and that he signed and sent back the application and thereafter received his employment authorization card.

Despite the applicant's assertions, the record of proceeding does not contain any evidence to show that the applicant filed a TPS application during the required registration period from January 5, 1999, to August 20, 1999. The record shows that the applicant's I-821 application filed in 1999 was rejected on April 29, 1999, May 28, 1999, and July 24, 1999. The record contains requests for evidence dated September 9, 2002, October 30, 2002, and June 30, 2003, that were sent by the service center to the applicant requesting that he submit proof that he had properly filed an I-821 Application for Temporary Protected Status. The record also contains decisions made by the Service Center Director dated January 17, 2002, December 5, 2002, January 17, 2003, and May 9, 2003, in which she determined that the applicant had failed to submit proof that he had properly filed an I-821 TPS application between January 5, 1999 and August 20, 1999. The director also noted that the applicant failed

to submit evidence to show that his rejected I-821 TPS application had been resubmitted and accepted by the service center during the requisite registration period. It is noted that in the Director's decision dated December 5, 2002, it is indicated that the applicant submitted only a copy of a rejected form I-821 as evidence, which was insufficient to establish his eligibility for TPS. It is also noted that the applicant was issued an EAD card in 1999, due to Service error, and not as a result of it receiving a properly filed I-821. 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). The current application was received by the Texas Service Center on August 11, 2003. Consequently, the director's decision to deny the application for TPS will be affirmed.

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.