



U.S. Citizenship
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Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 104 71990 as it relates to SRC 02 170 54613]

Date:

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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to
the California Service Center. 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 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, after the initial period. The director denied that application on September 16, 2002, after determining that the applicant had failed to establish he was eligible for late initial registration.

A subsequent appeal was dismissed by the Director, AAO, on April 8, 2003. Two subsequent late motions to reopen were dismissed by the Director, Texas Service Center on June 27, 2003 and on July 25, 2003.

The applicant filed the current Form I-821, on January 12, 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 an alien is filing a re-registration application, 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.

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.

The record contains a Form I-213, Record of Deportable/Inadmissible Alien, indicating that the United States Border Patrol took custody of the applicant from the local Sheriff's Department near Laredo, Texas, on March 23, 1999. When questioned, he stated that he departed Honduras on January 10, 1999 and entered Guatemala with a permit. He further stated that he then illegally entered Mexico on February 13, 1999, and that he illegally crossed into the United States on March 18, 1999. Therefore, he could not have been in the United States in continuous residence since December 30, 1998 and in continuous physical presence since January 5, 1999. It is determined that the applicant has failed to establish his continuous residence and continuous physical presence during the required time period. 8 C.F.R. § 244.2 (b) and (c). Therefore the application is denied for these additional reasons.

In removal proceedings held on November 14, 2001, an Immigration Judge in San Antonio, Texas, ordered the applicant deported "in absentia" to Honduras. It is further noted that the record contains an outstanding Form I-205, Warrant of Removal/Deportation, issued by the District Director of the San Antonio, Texas, office of Citizenship and Immigration Services, (formerly, the Immigration and Naturalization Service) on November 20, 2001.

The applicant's Federal Bureau of Investigation fingerprint results report shows that on October 6, 2001, he was arrested for aggravated assault with a weapon, a felony, by the Miami Police Department, a felony. On September 17, 2004, he was arrested for "BW NO VALID DRIVERS LICENSE," a misdemeanor, again by the Miami Police Department. However, the final court dispositions of these arrests are not included in the record of proceeding.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited 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.