



U.S. Citizenship
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Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

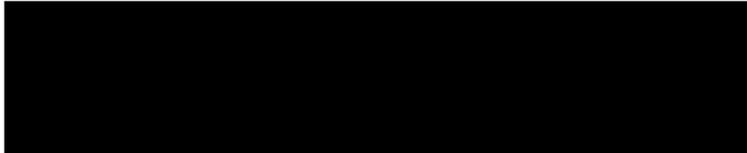
Date: MAR 05 2007

[consolidated herein]

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IN RE:

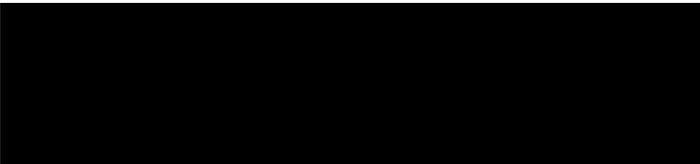
Applicant:



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, 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 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 under Citizenship and Immigration Services (CIS) receipt number SRC 99 192 54131. The director denied that application on October 21, 2005, because the applicant failed to establish continuous residence in the United States since December 30, 1998 and continuous physical presence since January 5, 1999. The record does not indicate that an appeal was filed from the denial decision. 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 December 30, 1994, 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.

On appeal, the applicant claims that CIS erred in denying his initial TPS application based upon his expedited removal from the United States on March 21, 1999. He argues that he presented evidence that he was present in the United States since December 1996 and that this was not interrupted by his departure from the United States for less than 90 days. However, he failed to provide any specific evidence about the nature and duration of his absence from the United States.

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).

It is noted that the applicant was previously placed under expedited removal proceedings on March 21, 1999 for falsely representing himself as a Lawful Permanent Resident Alien of the United States by presenting a valid Form I-94, Arrival/Departure Record, bearing a counterfeit temporary I-551, Admission for Permanent Residence, stamp for the purpose of gaining entry into the United States. On March 22, 1999, he again applied for admission into the United States by presenting a valid Form I-94 bearing a counterfeit temporary I-551 stamp. He was detained for criminal prosecution for knowingly possessing a false identification document with the intent that such document be used to defraud the United States. On March 23, 1999, he

was released on bond and paroled into the United States to appear for his arraignment on April 5, 1999. A Warrant For Arrest was issued by the United States District Court of the Western District of Texas after he failed to appear for his arraignment.

Finally, it is noted that although the applicant has provided photocopies of a Honduran passport and birth certificate, he claimed to be a native and citizen of Mexico when he was apprehended on March 21 and 22, 1999.

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.