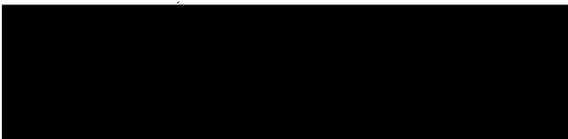




U.S. Citizenship
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Services

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FILE: [REDACTED] Office: California Service Center
[WAC 05 096 86245]

Date: MAR 06 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: 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.

Robert P. Wiemann, Director
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 record reveals that the applicant filed a late initial TPS application on July 15, 2003, under CIS receipt number SRC 03 206 54925. The director, Texas Service Center, denied that application on December 2, 2003, because the applicant failed to submit evidence to establish eligibility for late initial registration. The director also found that the applicant had failed to establish that he had arrived in the United States prior to December 30, 1998. The record reflects that a subsequent appeal to the AAO was dismissed by the AAO Director, on September 27, 2004. The AAO Director, in affirming the denial of the application, noted that the applicant had failed to establish eligibility for late initial registration, and failed to establish his qualifying residence prior to December 30, 1998. The record does not reflect that the applicant filed a motion to reopen/reconsider the AAO's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 4, 2005, and indicated that he was re-registering for TPS. The director, California Service Center, denied that application on July 1, 2005, as the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

On appeal, the applicant reasserts his eligibility for TPS, and states that he has been living in the United States since 1998. With the appeal, in an attempt to establish eligibility for TPS, the applicant submits copies of:

1. Four CIS receipt notices issued in 2003, and 2005;
2. A letter from the Internal Revenue Service, dated March 21, 2005, acknowledging receipt of an Application for an IRS Individual Taxpayer Identification Number (ITIN), Form W-7;
3. A 2003 U.S. Individual Income Tax Return, Form 1040, with two 2003 Wage and Tax Statements, Form W-2;
4. A State of Florida Driver License, issued September 20, 2005;
5. A CIS Notice of Intent to Deny, dated September 24, 2003;
6. A CIS Transfer Notice, dated January 20, 2004;
7. Two Smart Center money order receipts, dated August 11, 1999;
8. Four Florida Power and Light Company customer statements, dated June 1999 – September 1999;
9. An Estella Insurance payment receipt, dated January 15, 1999;
10. Two rent receipts for \$600.00 dated January 1, 1999, and August 3, 1999;
11. A Honduras photo identification card, issued August 23, 2001;
12. A State of Florida Certification of Birth, for the applicant's son who was born on July 15, 2003;
13. An invoice from JK Immigration Service, dated October 16, 2003;
14. Two DBI Tenprinter Applicant Information Worksheet(s) (AIW), date stamped September 12, 2003, and February 23, 2005; and
15. A CIS Fingerprint Notification, dated January 11, 2005.

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.

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 continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The initial registration period for Hondurans was from January 05, 1999, through August 20, 1999. The record reveals that the applicant filed this application with Citizenship and Immigration Services (CIS) on January 4, 2005.

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 or her own statements. 8 C.F.R. § 244.9(b).

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). Consequently, for this additional reason, the director's decision to deny the application for TPS will be affirmed.

Also, the evidence on appeal does not establish the requisite continuous residence in the United States and the continuous physical presence.

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 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.