



U.S. Citizenship
and Immigration
Services

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MAY 16 2007

FILE:

[WAC 05 064 71628]

Office: CALIFORNIA SERVICE CENTER

Date:

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 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 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 CIS receipt number EAC 99 139 53542. The Director, Vermont Service Center, denied that application on May 19, 2003, due to abandonment, because the applicant failed to respond to the director's request for evidence or to obtain fingerprints. The applicant failed to file a motion to reopen in response to the director's denial due to abandonment.

The record also shows that the applicant filed a second TPS application subsequent to the initial registration period under CIS receipt number EAC 02 234 52803. The Director, Vermont Service Center, denied that application on June 3, 2003, because the applicant had failed to submit any evidence to establish his eligibility for late registration.

The applicant filed an appeal on June 12, 2003. The AAO denied the appeal on October 28, 2004, because the applicant failed to show that he was eligible for late registration. The applicant filed a motion to reopen that was dismissed by the AAO on June 12, 2006, because the applicant failed to new facts or other documentary evidence to establish that he met any of the criteria for late registration as described in 8 C.F.R. § 244.2(f)(2).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 3, 2004, 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.

The applicant filed an appeal on December 22, 2005, and asserted his claim of eligibility for TPS.

It is noted that the Director, California Service Center, rejected the applicant's appeal in error on February 16, 2006. The director indicated in his decision that the rejection notice applies to receipt number EAC 99 139 53542; however, the record of proceeding shows that the applicant appealed the re-registration denial issued regarding receipt number WAC 05 064 71628. Therefore, the initial TPS application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office, the director's decision dated February 16, 2006 will be withdrawn.

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).

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.