



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 208 88497]

Office: CALIFORNIA SERVICE CENTER

Date: MAY 31 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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office 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 subsequent to the initial registration period under CIS receipt number EAC 01 108 51156. The Director, Vermont Service Center, denied that application on December 28, 2001, due to abandonment, because the applicant failed to respond to the director's request for evidence. The director informed the applicant that there is no appeal from a denial due to abandonment, but that he could file a motion to reopen the case within 33 days of the date of issuance of the Notice of Decision. The applicant did not file a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 26, 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 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.

On appeal, the applicant states that he was approved for TPS on January 5, 2005, and submits a copy of the TPS approval notice as evidence.

The January 5, 2005 TPS approval was in error. The applicant's February 21, 2001 TPS application was denied due to abandonment. The applicant failed to file a motion to reopen. Therefore, the initial TPS application has never been approved. Where the initial application has been denied, the subsequent re-registration application cannot be approved. It is noted that the re-registration approval was reviewed via service center motion to reopen on June 21, 2006, and thereafter denied on August 2, 2006.

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.