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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

[WAC 05 099 80180]

Office: CALIFORNIA SERVICE CENTER

Date: NOV 05 2007

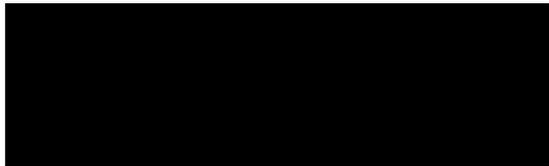
IN RE:

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 California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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, under receipt number SRC 03 185 55148 after the initial registration period had closed. The Director, Texas Service Center, denied that application on September 1, 2003, after determining that the applicant had failed to establish he was eligible for late initial registration. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821 on January 7, 2005, and indicated that wanted it to be considered as his first application to register for TPS.

The director denied the application because the applicant had not established prima facie eligibility and that he was ineligible for re-registration as his TPS application had not previously been granted.

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.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (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.

The initial registration period for Honduras was from January 5, 1999 through August 20, 1999. The record reveals that the applicant filed his initial application on June 19, 2003, and the current application with Citizenship and Immigration Services (CIS) on January 7, 2005. It is noted that counsel argues that the applicant filed a Form I-821 on February 19, 1999, and forwards a U.S. Postal Service Form 3811, Domestic Return Receipt, to support that contention. However, the record does not reveal what was received by CIS in the documentation transmitted under that domestic return receipt or otherwise establish that the applicant filed a Form I-821 in 1999.<sup>1</sup>

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 applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

An alien shall not be eligible for temporary protected status under this section if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. *See* Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

The applicant's Federal Bureau of Investigation (FBI) fingerprint results report shows that on April 2, 2004, he was arrested by the Metro Police Department in Nashville, Tennessee, for leaving the scene of an accident involving property damage and for failing to have a required driver's license. The final court dispositions of these arrests and any others he may have incurred have not been provided for the record by the applicant.

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.

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<sup>1</sup> On November 21, 2002, the applicant's Form I-765, Application for Employment Authorization, filed on July 31, 2001, was denied because he had failed to submit evidence that he had filed a Form I-821 prior to, or concurrently with that application.