



U.S. Citizenship
and Immigration
Services

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[REDACTED]

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FILE: [REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: OCT 01 2007

[WAC 05 075 71836]

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 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 on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who is applying for 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 02 202 55090 after the initial registration period had closed. The Director, Texas Service Center, denied that application on January 6, 2003, after determining that the applicant had abandoned her application by failing to respond to a Notice of Intent to Deny.

Since the application was denied due to abandonment, there was no appeal available; however, the applicant could have filed a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe. After review of the record, the Chief, AAO, affirms the director's denial decision.

The applicant filed the current Form I-821 on December 14, 2004, and indicated that she 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 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, she 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).

The record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated March 31, 2001, indicating that a Supervisory Special Agent of the former Immigration and Naturalization Service apprehended the applicant at the airport in Las Vegas, Nevada. At her interview, she stated that she had entered the United States on March 11, 2000, near Douglas, Arizona. Therefore, she cannot satisfy the continuous residence and continuous physical requirements described in 8 C.F.R. §§ 244.2(b) and (c) which require her continuous residence in the United States since December 30, 1998 and her continuous physical presence in this country since January 5, 1999. Consequently, the application must also be denied for these additional reasons.

It is noted that, in removal proceedings held on May 1, 2002, an Immigration Judge in Las Vegas, Nevada, ordered the applicant deported "in absentia" to Honduras. It is further noted that the record contains an outstanding Form I-205, Warrant of Removal/Deportation, issued by the District Director of the Las Vegas, Nevada, office of Citizenship and Immigration Services, (formerly, the Immigration and Naturalization Service) on May 3, 2002.

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.