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**U.S. Citizenship
and Immigration
Services**

M1

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: OCT 01 2007

[WAC 05 139 475]

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:

[REDACTED]

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 "R. 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.

On July 2, 2003, the applicant was granted TPS by an Immigration Judge in Orlando, Florida. The applicant filed his initial Form I-821, Application for Temporary Protected Status, on August 26, 2004, under receipt number SRC 04 230 53321 after the initial registration period had closed. The Director, Texas Service Center, withdrew the applicant's TPS by denying that application on September 27, 2004, after determining that the applicant had failed to establish he was eligible for late initial registration and because he had not met the continuous residence and continuous physical presence requirements for TPS. The director also found the applicant had failed to submit a photocopy of his original birth certificate with an English translation and that he had not forwarded photo identification or any national identity documents from his country of origin. The record currently contains a copy of the applicant's birth certificate along with an English translation, a copy of his Florida driver's license and a copy of his Honduran passport. After a review of the record, the Chief, AAO, concurs with the director's denial decision concerning his ineligibility for late initial registration and his failure to meet the required continuous residence and continuous residence requirements.

The applicant filed the current Form I-821 on February 16, 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 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. Consequently, the director's decision to deny the application will be affirmed.

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 record reveals the following offenses:

1. The applicant's Federal Bureau of Investigation (FBI) fingerprint results report shows that on June 23, 2000, the applicant was arrested for prostitution, a felony, by the Bradenton Police Department in Florida.

2. The applicant's FBI fingerprint results report shows that on July 24, 2002, he was arrested for burglary, a felony, by the Bradenton Police Department in Florida.

The final court dispositions of his arrests for prostitution and burglary listed above have not been provided for the record by the applicant.

The record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated February 10, 1999 indicating that the United States Border Patrol apprehended the applicant near Laredo, Texas, after he illegally entered the United States by crossing the Rio Grande River. At his interview, the applicant stated that he departed Honduras on January 14, 1999, that he arrived in Matamoros, Mexico, on February 7, 1999, and that he had waded across the Rio Grande prior to his apprehension. The applicant is required to meet the continuous residence and continuous physical presence requirements as provided in 8 C.F.R. §§ 244.2(b) and (c). None of the evidence presented by the applicant establishes his continuous residence since December 30, 1998 and his continuous physical presence from January 5, 1999, as he was still in Mexico until February 7, 1999, and had to enter the United States between that date and February 10, 1999 when he was apprehended in the United States. Therefore, he cannot satisfy the continuous residence and continuous physical requirements described in 8 C.F.R. §§ 244.2(b) and (c).

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.