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U.S. Citizenship  
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[REDACTED]

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **OCT 03 2007**  
[WAC 05 053 73935]

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 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 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 director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, the applicant asserts his claim of eligibility for TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (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.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his TPS application with Citizenship and Immigration Services (CIS) on November 22, 2004.

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 burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On May 2, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying residence and physical presence in the United States. The applicant submitted a copy of a notice to appear for his initial interview on November 22, 2004, pursuant to his Form I-485, Application to Register Permanent Residence or Adjustment Status. The applicant also submitted copies of his Employment Authorization Receipt (EAD) from January 31, 1998, a letter from Immigration dated October 13, 1998, pertaining to his EAD, a receipt for the EAD dated January 5, 1999, the EAD card issued, and an appointment letter from Immigration and Naturalization Services for November 25, 1999.

The director determined that the applicant had failed to establish that he was eligible for late registration and denied the application on June 12, 2006.

On appeal, the applicant states that he is eligible for late registration because he had an I-485, adjustment of status application pending during the initial registration period for TPS.

Contrary to the applicant's assertions, the record of proceedings shows that the initial I-130 and I-485 were filed on the applicant's behalf in November of 1997, the I-130 was approved in May of 2000, and both the I-130 and the I-485 were terminated on March 16, 2001. Hence, the applicant had 60 days from the termination date to file his TPS application, which if filed would still have been within the initial registration period. However, the record shows that the applicant filed his TPS application on November 22, 2004, which is more than 3 years after the expiration or termination of the qualifying condition.

The record also shows that a second I-130 application was filed on the applicant's behalf in May of 2000, and a second I-485 was filed on his behalf in August of 2002. The record further shows that the I-130 was revoked on July 11, 2003, appealed by the applicant, and thereafter denied on October 1, 2003. The record shows that the second I-485 was denied due to abandonment on December 15, 2004, because the applicant failed to report for his interview that was scheduled for November 22, 2004. Although the applicant claims that he still had an I-485 application pending at the time he filed his TPS application on November 22, 2004, thus making him eligible for late registration, that application was filed in August of 2002, which is after the initial registration period for Hondurans (January 5, 1999 through August 20, 1999).

The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS will be affirmed.

An alien applying for TPS 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.