



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]
[WAC 05 085 80753]

OFFICE: California Service Center

DATE: SEP 05 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:

[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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is 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 his first TPS application with the Nebraska Service Center (NSC) on June 6, 2000, under Citizenship and Immigration Services (CIS) receipt number LIN 00 231 50952. The application was denied by the NSC director on January 24, 2001, because the applicant failed to establish that he was eligible for late registration. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed a second TPS application with NSC on June 18, 2002 under receipt number LIN 02 216 51318. The NSC director denied the application on February 27, 2003, because the applicant was ineligible for late registration. The director also found that the applicant had failed to establish that he entered the United States prior to December 30, 1998, as well as his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant filed an appeal from that denial decision on March 25, 2003. A decision on that appeal will be issued under separate cover.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 24, 2004, and indicated that he was re-registering for TPS.

The CSC director denied the re-registration application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant filed the current appeal on August 26, 2005.

On appeal, counsel argues that denial of the applicant's initial TPS application has not been established because the applicant has no recollection of being served in person or by mail with the reason(s) for the denial of the initial TPS application. However, a review of the record clearly establishes that the applicant submitted a signed statement in response to a Request for Evidence related to his initial TPS application. Furthermore, the decision to deny said application issued on January 24, 2001, was mailed to his authorized representative.

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.

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 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.