



U.S. Citizenship
and Immigration
Services

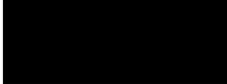
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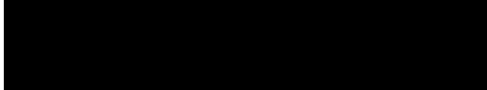
OFFICE: CALIFORNIA SERVICE CENTER

DATE: SEP 24 2007

[WAC 05 118 77144]

IN RE:

Applicant:



APPLICATION:

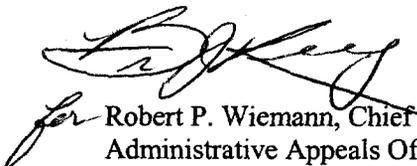
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

Self-represented

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.


for 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.

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

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 § 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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.

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. 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 record reveals that the applicant filed an initial TPS application on August 24, 2000, under receipt number WAC 01 043 52362. The director denied that application on December 17, 2002, because the applicant had failed to file his application during the initial registration period. On January 16, 2003, the applicant filed an appeal from the denial decision. The AAO reviewed the record and noted that the director had failed to accord the applicant an opportunity to submit evidence to establish his eligibility for late registration pursuant to 8 C.F.R. § 244.2(f)(2). Therefore, the AAO remanded the case to the director on April 28, 2004. The director subsequently requested, on April 8, 2005, that the applicant submit evidence to establish that he was eligible for late registration. The applicant failed to respond; therefore, the director denied the application on January 12, 2006, based on lack of prosecution.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 26, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on January 12, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States.

The applicant is filing the current TPS application as a re-registration; therefore, 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.

A review of the record indicates that the applicant's mother, [REDACTED] filed a TPS application during the initial registration period on August 19, 1999 [receipt number WAC 99 229 52424]. Regulations at 8 C.F.R. § 244.2(f)(2)(iv) simply allow children of aliens who are TPS-eligible to file applications after the initial registration period had closed; however, these regulations do not relax the requirements for eligibility for TPS. A review of [REDACTED] file indicates that her TPS application was denied on May 11, 2001, based on her failure to submit sufficient evidence to establish continuous residence in the United States since December 30, 1998, and to submit evidence to establish nationality. The director also denied [REDACTED] TPS re-registration application [EAC 07 051 50822] on December 20, 2006, because the initial TPS application had been denied and therefore she was not eligible to apply for re-registration for TPS. The record contains no evidence that [REDACTED] filed Form I-290B (Notice of Appeal to the Administrative Appeals Office) appealing the two denials issued by the director. Accordingly, the applicant has failed to establish that he has met the requirements of 8 C.F.R. § 244.2(f)(2)(iv), as a child of an alien currently eligible to be a TPS registrant, or any of the other criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

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 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.