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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: AUG 01 2008
[EAC 08 045 52164, appeal]
[EAC 07 084 51025]

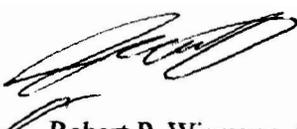
IN RE: Applicant: [REDACTED]

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 Vermont 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, Vermont 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 seeking 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 LIN 00 235 51164 after the initial registration period had closed. The Director, Nebraska Service Center, denied that application on January 24, 2001, after determining that the applicant had failed to establish he was eligible for late initial registration. After a review of the record, the Chief, AAO, concurs with the director's denial decision. The applicant filed a subsequent Form I-821 under receipt number WAC 05 104 71804 on January 12, 2005, and indicated that he was re-registering for TPS. The Director, California Service Center, 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. A subsequent appeal was dismissed by the Chief, AAO, on April 3, 2006, who determined that in addition to the applicant being ineligible for late initial registration, he had also failed to establish that he had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999.

The applicant filed the current Form I-821 on February 2, 2007, and indicated that he wanted it to be considered as a late initial application for TPS.

On appeal, counsel states the denial does not address the applicant's contention that his application should be considered in the exercise of discretion. Counsel further states that the applicant was previously represented by two attorneys who have been disbarred and that the applicant will address the Honduran identity card issue and criminal history in a forthcoming brief. Although counsel indicates that she would submit brief and/or additional evidence to the AAO within 30 days, she has not done so. Therefore, the record is considered complete.

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 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 section 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.

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 shows that the applicant filed his application with Citizenship and Immigration Services (CIS), on February 2, 2007.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

On April 13, 2007, 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). In response to the director's request, the applicant provided no further documentation concerning late registration eligibility. The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on October 30, 2007.

Counsel argues that the applicant's case was damaged because he was previously represented by two attorneys who have been disbarred. The record contains a declaration by the applicant dated January 18, 2007. He states that he had heard about TPS and that he wanted to apply so he went to see the first attorney that he retained in December of 1999 or January of 2000. At that late date, the attorney could not have guided the applicant to timely file his first application, which is a critical issue in this case, because the initial registration period for Hondurans was from January 5, 1999, through August 20, 1999, and his opportunity to file in a

timely manner had already passed. Therefore, the claims of misrepresentation do not overcome the untimely filing of the application.

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

The record contains a copy of the applicant's Republic of Honduras Identification Card. The card was issued to him in Honduras on August 4, 2000. Therefore, he could not have been in continuous residence in the United States since February 13, 2001. After review of the record, it is determined that the applicant has not provided sufficient evidence establishing his continuous residence and continuous physical presence during the required time period. 8 C.F.R. §§ 244.2 (b) and (c). Therefore, the director's decision to deny the application for TPS is affirmed for these additional reasons.

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.