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U.S. Citizenship
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Services

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FILE: [REDACTED]
[EAC 06258 75622]

OFFICE: VERMONT SERVICE CENTER DATE:

JAN 03 2008

INRE: 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: 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

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

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

On appeal, the applicant claims that he is a child of a TPS registrant. The applicant asserts that since his initial entry in November 1998, he has resided continuously in the United States.

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 application with Citizenship and Immigration Services (CIS) on June 15, 2006.

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.P.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.P.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 or her own statements. 8 C.P.R. § 244.9(b).

On December 6, 2006, and March 13, 2007, the applicant was requested to submit evidence establishing his identity as well as evidence establishing his continuous residence from December 30, 1998 and physical presence from January 5, 1999, to the date of filing in the United States. The applicant, however, did not respond to either notice.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on January 19, 2007.¹ On appeal, the applicant submits an additional copy of his birth certificate with English translation along with copies of employment authorization cards belonging to his father, [REDACTED] Z, a Honduran national.

The applicant has met the threshold requirement for late registration as during the initial registration period he was a child of an alien currently eligible to be a TPS registrant. However, this requirement alone does not render the applicant eligible for the benefit being sought. The applicant turned twenty-one on May 2, 2005, and pursuant to 8 c.P.R. § 244.2(g), the applicant had 60 days in which to file an application for late registration once he turned twenty-one. The applicant, however, did not file his application for late registration until June 15, 2006, 13 months after he turned twenty-one. Consequently, the director's decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, it is noted that the applicant has not met submitted any evidence to establish that he has met the criteria for residence and physical presence described in 8 C.P.R. § 244.2(b) and (c). Therefore, the application must be denied for these reasons as well.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for withdrawal. 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.

¹ The Notice of Denial was re-mailed to the applicant on April 30, 2007.