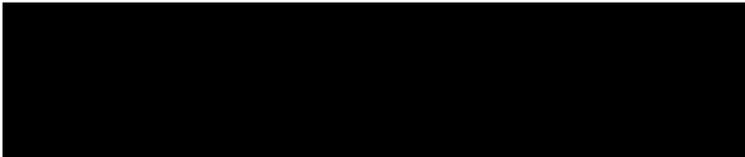




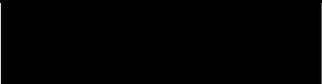
U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JAN 14 2008

[WAC 06 052 70225]

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:



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 (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 initial TPS application on June 16, 2003, under Citizenship and Immigration Services (CIS) receipt number LIN 03 204 50280. This application was filed under alien registration number [REDACTED].<sup>1</sup> The Director, Nebraska Service Center, denied that application on November 24, 2003, because the applicant failed to respond to a request to submit evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period and his eligibility to file for late initial registration. There is nothing in the record to indicate that the applicant appealed the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 21, 2005, under alien registration number [REDACTED] and indicated that he was submitting his initial TPS application.

The director 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.

On appeal, the applicant states that he never received a notice denying his initial TPS application. The applicant also submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States.

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 is not a current TPS registrant. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

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<sup>1</sup> It is noted the applicant stated his date of birth on the Form I-821 filed under [REDACTED] as January 1, 1969, and on the Form I-765, submitted at the same time, as January 1, 1961. The English translation of the birth certificate states his date of birth as January 1, 1967, however the Spanish language birth certificate, his Honduran passport, and all documents filed under [REDACTED] show the date of birth as January 1, 1961.

- (f) (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 to August 20, 1999. The record reveals that the applicant filed the current application with CIS on November 21, 2005.

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

On appeal, the applicant states that he never received a notice denying his TPS application or a notice requesting additional evidence. However, the notices were sent to the applicant's address of record. There is nothing in the record to indicate that the notices were returned to CIS by the U.S. Postal Service as undeliverable. Therefore, the applicant's failure to receive the notices is of his own making. According to the applicant he paid his representative and received no services from this individual. The applicant also submits copies of news clips regarding charges being filed against his representative. The applicant's statements made on appeal have been considered, however, CIS is not responsible for the action or inaction of the applicant's representative. The applicant also submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period.

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

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.