



U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date: JUL 07 2008

[WAC 05 049 75469]

INRE:

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 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, 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 an initial TPS application on August 16, 1999, under CIS receipt number LIN 99 237 50886. The Director, Nebraska Service Center, denied that application on June 5, 2001, due to abandonment because the applicant failed to respond to a December 13, 2000 request for evidence to submit court disposition records for a charge of Forgery on July 6, 1995. A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 CF.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed the current Form 1-821, Application for Temporary Protected Status, under CIS receipt number WAC 05 049 75469, and indicated that he was re-registering for TPS. The Director, California Service Center, 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.

On appeal, the applicant reasserts his eligibility for TPS and states that he has submitted requested documentation, including final court disposition pertaining to his arrest on July 6, 1995. With his appeal, the applicant submits various documents.

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 CF.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. On appeal, the applicant states that he is eligible for late initial registration for TPS as the spouse of a TPS registrant.

Section 244(c) of the Act, and the related regulations in 8 CF.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

- (t) (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 (t)(2) of this section.

Persons applying for TPS offered to Hondurans must demonstrate continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The initial registration period for Hondurans was from January 05, 1999, through August 20, 1999. The record reveals that the applicant filed this TPS application with Citizenship and Immigration Services (CIS) on May 13, 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.P.R. § 244.2(t)(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).

In order for an applicant to establish eligibility for late initial registration as the spouse of a TPS recipient, the marriage must have taken place before or within the initial registration period from January 5, 1999 through August 20, 1999. The record reflects that the applicant married _____ on September 17, 1999, after the registration period for Hondurans. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.P.R. § 244.2(t)(2). Consequently, for this reason the director's decision to deny the application for TPS must be affirmed.

It is noted that the record of proceedings reveals that the applicant was apprehended on entry, was placed in deportation proceedings, was ordered deported August 25, 1995, by an Immigration Judge, and was deported at Los Angeles, California, on September 23, 1995, pursuant to an executed warrant of removal.

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.