



U.S. Citizenship  
and Immigration  
Services

*PUBLIC Copy*

identifying data deleted to  
**prevent** clearly unwarranted  
invas**ION** of personal privacy

M1

[REDACTED]

FILE:

OFFICE: VERMONT SERVICE CENTER

DATE: JUN 02 2008

[REDACTED]

[consolidated]

[EAC 03 183 5 1375]

[EAC 01 25051677]

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:

[REDACTED]

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, Vennont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a citizen of Honduras who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the Fonn 1-821, Application for Temporary Protected Status, because the applicant failed to establish that he was eligible for late registration.

On appeal, the applicant provides evidence indicating he had filed another TPS application that was approved on August 8, 2002.

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 initial TPS application on May 11, 1999, and was given alien registration number \_\_\_\_\_. On May 15, 2000, the director denied the application due to abandonment because the applicant failed to submit evidence of his continuous residence and physical presence in the United States during the requisite periods. The applicant subsequently filed a timely motion to reopen, which was denied by the director on April 21, 2001, as it did not meet applicable requirements pursuant to 8 C.F.R. § 103.5(a)(4).

On July 3, 2001, the applicant filed another TPS application, which he indicated was his first application. The applicant was assigned alien registration number \_\_\_\_\_ for this application. On August 8, 2002, this TPS application was approved. On May 19, 2003, the applicant filed a re-registration application; however, he failed to *list* the alien registration number \_\_\_\_\_ that had been assigned to this TPS application. The applicant listed a prior alien registration number, \_\_\_\_\_ on the application, and as such, the director associated the re-registration application with the TPS application \_\_\_\_\_ filed on May 11, 1999. 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.

The AAO will first review \_\_\_\_\_ determine the applicant's eligibility.

A review of the documents contained in \_\_\_\_\_ **reflects** that the application was filed after the initial registration period had expired. As such, the application is to be considered a late registration application for TPS. 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 contains a handwritten notation indicating "the applicant was under proceedings in 1998." A review of the documents contained in the applicant's prior A-file \_\_\_\_\_ reveals that on May 10, 1998, the applicant was apprehended by the United States Border Patrol in Brownsville, Texas. On May 11, 1998, the applicant was issued a Notice to Appear, Form I-862. A removal hearing was held on August 18, 1998, and the alien was ordered removed *in absentia*.

The applicant therefore had no relief from removal that was pending or subject to further review or appeal during the initial registration period of January 5, 1999, through August 20, 1999. The record contains no other documentation to **suggest the applicant** met any of the other criteria described in 8 C.F.R. § 244.2(f)(2). As such, this application, \_\_\_\_\_ was approved in error.

The director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1). If a decision to withdraw TPS is entered by the

AAO, the AAO shall notify the alien of the decision and the right to a de novo determination of eligibility for TPS in removal proceedings, if the alien is then removable. 8 C.F.R. § 244.14(c).

It has been determined that the applicant is ineligible for TPS as he did not meet any of the criteria described in 8 C.F.R. § 244.2(f)(2). Therefore, in accordance with 8 C.F.R. § 244.14, the prior approval of the applicant's TPS status under receipt number EAC0125051677 for alien registration number [REDACTED] is hereby withdrawn.

The AAO will review [REDACTED] in order to determine the applicant's eligibility.

As previously noted 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 August 18, 2003, 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). The applicant was also requested to submit evidence establishing his qualifying residence and physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on January 27, 2004. On appeal, the applicant requests to know why this application was denied when the original application had been granted. The applicant provides evidence relating to the approval of his TPS application filed under [REDACTED]

As noted above, the applicant's application file under [REDACTED] was approved in error. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny this application for TPS will be affirmed.

An alien applying for TPS 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 approval of the application filed under [REDACTED] is withdrawn. The appeal from the denial of the application for late registration filed under [REDACTED] is dismissed.